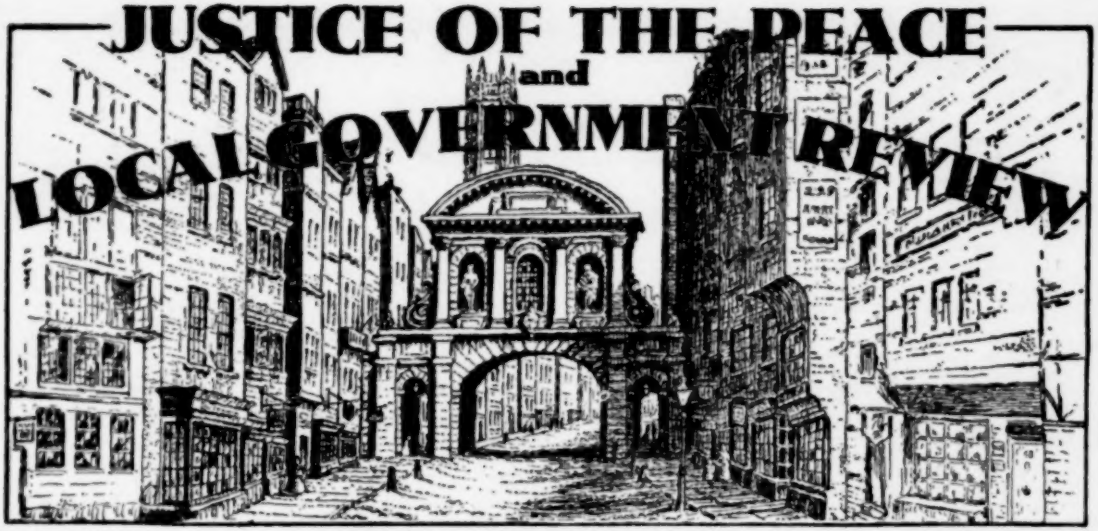

VOL. CXV. LONDON: SATURDAY, JULY 28, 1951. No. 30

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Official & Classified Advertisements, etc.

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Borough of Stretford

Appointment of Assistant Solicitor

APPLICATIONS are invited from Solicitors for the appointment of Assistant Solicitor. Salary A.P.T. V (a) (£600—£660) rising to A.P.T. VII (£685—£760) after two years' service since admission.

The appointment is subject to the Local Government Superannuation Act, 1937, and to medical examination and will be terminable by one month's notice.

Applications, stating age, education, and experience, together with the names of two referees, and endorsed "Assistant Solicitor," must reach me not later than August 7, 1951.

C. TREWAVAS,
Town Clerk.

Town Hall,
Stretford,
Lancashire.

County of Derby

Appointment of Whole-time Woman Probation Officer

APPLICATIONS are invited for appointment of a whole-time Woman Probation Officer to serve the Chesterfield Borough and the Alfreton Petty Sessional Divisions of the Derbyshire Combined Probation Area.

The appointment and salary will be subject to the Probation Rules, 1949-50. The officer appointed will be required to provide a motor car (for which an allowance will be paid), and to undergo a medical examination.

Forms of application may be obtained from the undersigned and should be completed to reach me not later than August 18, 1951.

D. G. GILMAN,
Clerk to the Derbyshire Combined Area Probation Committee.

County Offices, Derby.

City of Manchester Probation Service

Appointment of Whole-time Male Probation Officer

APPLICATIONS are invited for the above appointment. Applicants must be not less than 23 nor more than 40 years of age, except in the case of whole-time serving officers. The salary and conditions of service will be in accordance with the Probation Rules, 1949, and 1950.

The successful candidate will be required to pass a medical examination.

Applications, in own handwriting, stating date of birth, present and previous employment, qualifications and experience, together with two recent testimonials, must reach me not later than August 13, 1951.

WALTER LYON,
Secretary to the Probation Committee.

12, Minshull Street, Manchester, 1.

Salop County Council

Appointment of Law Clerk

APPLICATIONS are invited for the appointment of male Law Clerk (unadmitted) in the office of the Clerk of the Salop County Council at a salary in accordance with the Clerical or Higher Clerical Divisions of the National Scheme of Conditions of Service, according to experience; the range being £445 rising by annual increments to £535. Applicants must have had some experience in conveyancing and general legal work, not necessarily in a local government office. Experience in Common Law and County Court procedure would also be an advantage. The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937, and the successful candidate will be required to pass a medical examination. The post is intended for a young man and carries opportunities for promotion.

Applications, giving particulars of age, past and present employment with dates, experience and present salary, and giving the names of three referees, must reach the undersigned not later than August 20, 1951.

G. C. GODBER,
Clerk of the Council.

Shirehall,
Shrewsbury.
July 17, 1951.

Borough of Barry

Population	..	40,979
Rateable Value	..	£245,061
Area	..	4,265 acres

Appointment of Deputy Town Clerk

APPLICATIONS are invited from Solicitors with considerable Local Government experience for the appointment of Deputy Town Clerk, at a salary in accordance with Grade X of the National Scheme of Conditions of Service.

Applicants must be under 45 years of age.

The appointment is subject to the National Scheme of Conditions of Service; to the Local Government Superannuation Act, 1937; to a medical examination, and to termination by three months' notice in writing at any time on either side.

Housing accommodation will be made available by the Corporation if required.

Applications, on forms obtainable from the undersigned, must be delivered to me not later than August, 31 1951.

Canvassing will disqualify, and applicants must disclose any known relationship to any member or senior officer of the Council.

T. D. HOWELLS,
Town Clerk.

Town Hall, Barry,

Justice of the Peace
and
Local Government Review

[ESTABLISHED 1837.]

VOL. CXV. No. 30.
Pages 463-478

LONDON : SATURDAY, JULY 28, 1951

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NOTES of the WEEK

Hotel Registration

In a letter to a Sunday newspaper a correspondent says that he was recently refused admission to a luxury hotel, as he refused to register his name and address. He adds that the general manager said this was a police requirement, but was unable to quote any Act or Order to support his statement. Eventually the guest was, however, admitted.

The answer, surely, is to be found in para. 7 (2) of the Aliens Order, 1920, which imposes a duty on hotels and similar establishments to keep a register relating to all persons (irrespective of their nationality) of the age of sixteen years or over staying at the premises. The article goes on "(*a*) every such person arriving at the premises to stay thereat shall enter or secure that there is entered in the register his name, nationality and date of arrival, (*b*) and it shall be the duty of the keeper of the premises to require every such person to comply with his obligations under this paragraph."

As its title indicates, the Order is mainly concerned with aliens, but if full particulars are to be obtained and recorded in the case of aliens it is obviously necessary that every guest staying at an hotel should furnish information as to his nationality, and it seems to us that the particulars required are the minimum that could be expected, and that no one need feel annoyed at being asked to enter his name and nationality in a visitors book. Indeed most people would wish to register name and address as a means of facilitating the forwarding of communications.

Desertion

The case of *Lane* v. *Lane* (1951) W.N. 273, is of great importance to justices, not because it enunciated any new principle, but because in re-affirming a well established principle it stated certain tests to be applied in deciding cases of what is commonly called constructive desertion, and because the learned President explained these principles and tests in such a way as to make them easily understood.

Lane v. *Lane* was an appeal against a maintenance order made by justices and it was heard by Lord Merriman and Willmer, J.. It appeared that the wife had earlier obtained an order on the ground of desertion, that the parties had subsequently resumed cohabitation, and that finally the wife left her husband in circumstances which, it was submitted, showed that the husband was guilty of desertion. In making the order, the justices were moved partly by the fact that the husband's conduct showed lack of affection and was likely to show the wife that she was not welcome back. They found that he taunted her, saying that he never asked her to return, and they considered a request to the wife, by letter, to return to him was insincere.

Lord Merriman, in the course of his judgment, dismissing the appeal approved the statement of his predecessor in *Pulford* v. *Pulford* [1923] P. 18, that desertion is not a withdrawal from a place but from a state of things, and said he would call that state of things for short, the home. It did not matter which side of the front door, so to speak, the spouses were found when they parted. The intent to bring the joint home to an end could be inferred from, among other things the nature of the parting itself, as when the husband fled with a false name, or from conduct so brutal that the wife must leave for fear of her life, or from words so plain that the husband might be taken to mean what he said. The intention of the husband could be inferred from his conduct or his words. If the wife unreasonably refused to continue or resume cohabitation the parting could not be said to be without her consent, but the position was different where words or deeds compelled her to leave. As to words, if it were proved that the words were intended to be final, conclusive and effective, what better evidence could there be of the cause of separation and the intention of the husband, and was not the very fact that he thought it necessary to use, and maybe, to repeat those words, evidence of the lack of consent to the separation on the part of the wife ?

These are merely one or two points from a judgment which may be read with advantage by justices, practitioners and clerks. It shows how these cases should be approached, and how carefully the evidence should be examined so as to distinguish between idle words and words spoken seriously, in order that the true attitude of the parties towards one another and their joint life may be ascertained.

Marriage Under Age

Since by the Age of Marriage Act, 1929, it is enacted that a marriage between persons either of whom is under sixteen years of age shall be void, the jurisdiction of justices to make any order under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, is ousted if it appears from the evidence that one of the parties was under sixteen at the time of the marriage.

That, we think, is true as a general proposition, but it might be subject to exceptions arising out of questions of nationality, domicile and the country in which the marriage took place.

In *Pugh* (*otherwise Eperjesy*) *K. H.* v. *Pugh, J. C.* (*The Times*, July 13), the wife was granted a decree *nisi* of nullity on the ground that at the time of the ceremony of marriage which in 1946 she went through in Austria she was under sixteen years of age. She was a Hungarian by birth, and the respondent was an Englishman domiciled in this country. At the time of the marriage he was an officer in the army serving in Austria.

In the course of his judgment Pearce, J., said :

" The intention of the parties throughout had been to make the matrimonial home in England, and the case must depend on which law was applicable. If it were Hungarian or Austrian the marriage was valid ; if English law applied it was invalid by reason of the provisions of the Age of Marriage Act, 1929.

" There was no provision in the statute that the Act should not extend beyond the sea, though by s. 3 (2) the Act did not extend to Northern Ireland.

" It had been urged, and rightly, that, if the statute were ambiguous, it must not be construed as invalidating the marriage. But the words were clear and general. It had to be remembered that personal law and capacity to marry were considered to be the concern of the country of the domicile. It was right and reasonable that the country of the domicile should from time to time vary and affect the personal law of its subjects as changing religious, moral, and social conditions demanded. He (his Lordship) saw no reason to put on the words of the statute any other limitation than the obvious one that they were not intended to apply to marriages abroad of persons who were not domiciled here and who were not the concern of, and were not subject to, the laws of Parliament.

" By the Act of 1929, Parliament was deliberately legislating something which was a matter of its own peculiar concern—namely, the personal law of the subjects and their capacity to contract marriage. The Act was intended to affect that capacity of all persons domiciled in the United Kingdom wherever the marriage might have been celebrated.

" It followed that, since the respondent was domiciled in England, he could not lawfully enter into a marriage with a woman under the age of sixteen, and accordingly the petitioner would be granted a decree *nisi* of nullity."

Evidence Act, 1938

Jarman v. *Lambert and Cooke (Contractors) Limited* (1951) 212 L.T. 9, is another decision of the Court of Appeal on the admissibility of a written statement under s. 1 of the Evidence Act, 1938. The particular point was the question whether the statement was made at a time when proceedings were pending or anticipated. Section 1 (3) of the Act reads : " Nothing in this section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact which the statement might tend to establish."

In this instance, the statement was made by a man who had since died, and whose widow brought an action against the employers for negligence which resulted in an accident. The deceased had filled in a form supplied by an approved society to enable the society to make a claim on his behalf for disablement benefit under the Workman's Compensation Act, 1925. He stated how the accident occurred, that he blamed no one for the accident, that he had not taken any proceedings to enforce his claim, and that he did not propose to instruct any solicitor to make a claim or take proceedings on his behalf. Later, the injury having resulted in the loss of a leg the solicitor wrote informing the employers that the man would no longer accept compensation under the Act of 1925, as it was now thought that his proper claim was at common law for negligence against the defendants. After proceedings had been started the man died, and his widow and administratrix was substituted as plaintiff in the action.

The admissibility of the statement in evidence at the trial was contested on the ground that the statement was made at a time when proceedings were anticipated involving a dispute as to any fact which the statement might tend to establish.

The Court of Appeal held that proceedings were anticipated within the meaning of s. 1 (3), *supra*, when they were regarded as likely or, at the most, as reasonably probable. In the circumstances, having regard to the nature and contents of the document, proceedings were not anticipated within the meaning of the subsection, by anyone when the statement was made. The document was therefore admissible.

The reference to the nature and contents of the document seems to point to s. 1 (5) of the Act, which states : " For the purpose of deciding whether or not a statement is admissible as evidence by virtue of the foregoing provisions, the court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances . . ."

Borstal Discipline

Governors and officers of borstal institutions naturally hesitate about joining in controversy or answering criticisms of the system. It is well, therefore, that Mr. C. A. Joyce, now head of the Cotswold approved school, has made his contribution in the correspondence columns of *The Times*. Mr. Joyce had considerable experience in borstal institutions, and he writes with the authority due to that experience and to his reputation.

Mr. Joyce lays his finger on the weak spot in many arguments when he says that today we are much too fond of projecting into the young delinquent what we think he should think instead of taking note of what he thinks in fact. Inducing conformity to rules need not, he is sure, engender resentment. Punishment is not an admission of defeat, and it is necessary to get away from the idea that it is something imposed upon a boy, and to make him realize that it is a thing we bring upon ourselves. Young men can be made to realize that in order to enjoy privileges they must accept responsibility and work.

Mr. Joyce is quite understanding and sympathetic about many of the absconders, but he is also realistic, " I feel that society has as much right to be protected as the criminal has to be understood," he says, " and while we are always ready to try to see the point of view of the person who is nostalgic, irritated by his surroundings, or unco-operative for some other reason, I do feel there is a limit to what the law-abiding public should be made to suffer in order that the individual may express his own views freely." He does not desire a harsher system, but he recognizes, it is clear, that for the good of the boys as well as that of the public, it may sometimes be necessary to curtail liberty for a time.

Mr. Joyce acknowledges the value of psychiatric treatment for those, a class apart, who are in need of it. These, however, he estimates at two *per cent.* of the total.

Finally, he writes : " Affection is our gift to one another ; punishment is something we bring upon ourselves, to the sorrow of those who are our friends."

Probation in East Suffolk

We have received a copy of the report for 1950 of the senior probation officer for East Suffolk. He finds reason to complain of inadequate accommodation for the Ipswich staff involving as it does a lack of the necessary privacy for interviewing both in probation and in matrimonial cases. It is noted, however, that satisfactory offices will be available shortly.

A suggestion is made that, owing to the extent of the area to be covered and of the need for adequate facilities being provided in the rural parts, an additional office will have to be opened

at Halesworth to serve better a group of courts in the northern zone of the area. Re-organization of the work in Ipswich is also thought to be necessary, involving the engagement of another male officer to work from an office on the west side.

At the end of the year 322 persons remained on probation, compared with 327 at the end of 1949, and there were seven probation officers to deal with this work. It is claimed that of the 230 persons whose probation ended during the year 191 were reported as being satisfactory. This is a high proportion. Of the thirty-nine unsatisfactory cases fifteen were sent to approved schools, three to borstal and six to prison. It is reported that, consequent upon their satisfactory behaviour, twenty-three probationers had their orders discharged before the end of the period fixed for their probation.

It is the opinion of the senior probation officer that in these days of full employment there is relatively little poverty amongst the parents of juveniles appearing before the courts, but he thinks that the practice of mothers going out to work does have an adverse effect on the children and deprives them in many cases of the care and affection and feeling of security which they need.

We regret to see it stated that, in order to help some of their probationers, officers have felt obliged from time to time to spend sums from their own pockets for purposes which cannot be met from any public fund. This item is noted under the heading " The need for a Poor Box," and we hope sincerely that something can be done to prevent probation officers being put to personal loss in doing their job satisfactorily.

The report also mentions the starting, with useful results, of a " probationers' club " in which boys who did not seem to fit into ordinary clubs learn the rules of such institutions and gradually qualify for the benefits of membership of them.

These reports are most interesting and give a useful picture of the work that is being done throughout the country.

Contract or Contempt

Contempt of court is not the heavy weapon here that it seems to be in the United States, but applications are not especially uncommon. The case of *R.* v. *Weicz and Another, ex parte Hector Macdonald Ltd.*, (*The Times*, June 29, 1951), was unusual, and deserves notice from the point of view of all practising solicitors. Weicz had had betting transactions over a long period with Macdonalds, as a result of which they had come to regard him as an undesirable customer. When business relations were broken off, he was aggrieved, and considered that they owed him something between £300 and £400 ; Tattersall's Committee did not agree, and the firm accordingly refused to pay. Weicz was anxious to " show them up " in court, and consulted Mr. Martin. The old-established firm of solicitors in which Mr. Martin was a partner had acted for Weicz in other sorts of business for some thirty years, but Mr. Martin had, he said, no personal knowledge of racing and betting and had had no previous occasion to be concerned with them professionally—about all he knew, it seems, was that actions would not lie for betting debts. After proper attempts to discourage Weicz from proceeding with the action, he allowed himself to be persuaded to send papers to counsel for the indorsement on the writ to be settled. It being obviously impossible to state the cause of action as an unpaid betting debt, counsel gave it as " an account stated "—a technical expression which to Weicz, if he had seen it (he was apparently abroad), would have conveyed no meaning. The defendants' application for particulars exposed the inappropriateness of the indorsement, and the action was discontinued at that stage. Macdonalds, Ltd., were not satisfied with this technical victory, and set on foot proceedings for contempt of court, the alleged contempt being the issue of a deceptive indorsement to the writ. After a protracted hearing, Weicz was held not to be guilty of contempt, though he had to pay his own costs. Mr. Martin, despite his ignorance of betting and his having relied on counsel for the terms of the indorsement, could not, as an officer of the court, be held guiltless of concurring in an effort to deceive the court, amounting to contempt, although no penalty beyond costs was imposed upon him. It is difficult not to conclude that counsel was the villain of the piece : he was not of those engaged when the issue of contempt came into court, and no opportunity arose for him to explain how he came to settle the indorsement in that way. The Lord Chief Justice said that, wrong though it was, it had been not unusual, the inwardness of this being that, in many betting cases, there is no defence. A party who has been obdurate about a debt until he gets a writ prefers thereupon to pay, since it would injure his credit to set up the Gaming Acts as a defence. Thus judgment in default is signed, without the raising of questions by the officers of the court, and the erroneous indorsement serves its purpose ; it had, we gather, grown into something not unlike a common vouchee or writ of *latitat*. An element of humour came at the end of the case, when leading counsel for Mr. Martin stated that the firm of bookmakers who had caused the contempt proceedings to be taken had themselves used the same indorsement.

Our own readers are, for the most part, not likely to be called upon to launch proceedings for betting debts (though Mr. Martin could have said the same). The moral for them is more general—that a solicitor cannot properly take part in proceedings on instructions of a client when, applying the best professional judgment he can give, he sees an obstacle which has to be got round by concealing some essential point. The sort of case which may easily arise in our own sphere is when a solicitor is instructed to initiate proceedings arising out of a building contract, and the work was not covered by a civil building licence, but the fate of Mr. Martin has a moral even in purely local government affairs. We remember a case not long ago where a very experienced town clerk asserted that, as solicitor to the corporation, he was entitled to take legal steps on instructions from the council, without regard to facts known to him in his administrative capacity which would have been fatal to the council's claim.

Termination by Ordinary Notice

In one of the queries lately sent us, the acquiring authority had completed the purchase, and asked us what was the effect of their serving on a weekly tenant (protected by the Rent Restrictions Acts) a notice to quit, such as their vendor could have served, *i.e.*, an ordinary notice as from a landlord to a tenant. To this, the answer in our opinion must be that they have bought the landlord's interest, which was all he had to sell, and they can (as successors to his title) have no higher right than he had. This was in substance the point in *Syers* v. *Metropolitan Board of Works*, *supra*. The acquiring authority had there actually completed their purchase, and gave the tenant three months' notice, as their vendor could have done. The tenant had therefore not been ousted from any legal right, and had no claim to any compensation. In other words, the new landlord by compulsory purchase was in no worse position than the old. From which it follows (as it seems to us) that the new landlord equally cannot be in a better position, as a landlord, than was his vendor. But we emphasize those words, " as a landlord " : this does not mean that the acquiring authority cannot get rid of a tenant who is protected by the Rent Restrictions Acts. Section 121 of the Act of 1845 is a curiously incomplete enactment : it proceeds on the assumption that the acquiring authority has power to turn a tenant out before his term expires, though such power is nowhere expressly given. However, the

effect of s. 121, according to the opinion of Jessel, M.R., in the case cited (which is generally accepted) is that, if prepared to compensate under the section, the acquiring authority can oblige the tenant for a year, from year to year, or for a less term, to give them possession before the expiry of his term. In other words, their " requirement " coupled with payment or tender under that section is something different from " notice to quit," in the sense of the law of landlord and tenant. Our opinion upon this point seems to be supported by the decision of the Court of Appeal in *Portman Building Society* v. *Young* [1951] 1 All E.R. 191.

Or by Compensation

Now apply this to the Rent Restrictions Acts. Section 3 of the Act of 1933 says that " no order or judgment for the recovery of possession shall be made or given," except in the cases for which the Act allows : those cases do not include any provision in favour of a landlord who has become landlord by compulsory purchase—hence our answer to the question about the effect of an ordinary notice to quit by such a landlord. But s. 121 of the Act of 1845 is not concerned with " recovery " of possession. The acquiring authority can make known its " requirement " to the person in possession in terms of the section, in (it seems) any form of words, not by way of a notice to quit, and that person is by the statute obliged, upon payment or tender of the proper compensation, to deliver up possession. If he fails to do so, the acquiring authority does not need an order or judgment ; it issues its own warrant to the sheriff under s. 91 of the same Act, and the sheriff taking and delivering possession accordingly does not need to be supported by an order of the court. One point against this view could perhaps be taken, and should therefore be mentioned. Section 121 of the Act of 1845 applies only where a person is required to give up possession of lands " before the expiration of his term or interest therein." Whilst it is appropriate to apply this phraseology to a contractual tenant who is required to give up possession, what of the person who has already received notice to quit from the vendor (or indeed from the purchaser, after the latter has acquired the reversion), and by holding on to the premises after expiry of that notice has become a " statutory tenant "? Upon receiving a requirement under s. 121 he has not been required to give up possession before " expiration of his term," since his term had already ended. He can only be brought within s. 121, either for his own purpose or that of the acquiring authority (*i.e.*, for the sake of getting compensation or for the purpose of being required to leave the premises) by its being held that as a (so-called) statutory tenant he has an " interest " within the meaning of the section. On the whole, we think this must be so. If it is (*i.e.*, if the section can be used) the value of the interest for purposes of compensation might be relatively large, but paying compensation on this footing will be less of an evil to the acquiring authority than would be indefinite inability to secure possession because the statutory tenant had no " interest " within the meaning of s. 121. We said above that the Acquisition of Land (Authorization Procedure) Act, 1946, did not seem to alter the position established by Jessel, M.R., in *Syers* v. *Metropolitan Board of Works*, *supra*. There is, however, another subsidiary question, which was put to us in the second of the P.P.s above mentioned. Can an acquiring authority which has not yet completed the purchase (and therefore cannot give an ordinary notice to quit in the capacity of landlord) make use of s. 121 of the Act of 1845, after an entry (as against its vendor) by virtue of para. 3 of sch. 2 to the Act of 1946 ? We find nothing to prevent it, and the reason of the thing seems to demand that an acquiring authority which has ousted its vendor, by virtue of the paragraph, shall be just as much able to start work upon the land, without being handicapped by inability to get rid (on compensation) of persons in occupation of portions of the property, as if its freehold title was complete.

Metropolitan Music

Many people must surely have rubbed their eyes and looked again upon reading in the London morning newspapers towards the end of June, apparently on the authority of London Quarter Sessions, that " postmen and guardsmen " enjoyed a special privilege in regard to playing musical instruments in London streets. The learned chairman seems to have been surprised himself, on reading the fourteenth paragraph of s. 54 of the Metropolitan Police Act, 1839, under which a street musician had been convicted by Mr. Daniel Hopkin. The extensive and peculiar legislation applying to police and traffic in the metropolitan police district holds many curiosities, and the fourteenth group of offences in s. 54 deserves a special mention. The operative words of the section impose a fine not exceeding £2 and give constables a power of summary arrest for an offence committed in their view. The following is the full text of the paragraph in question : " Every person, except the guards and postmen belonging to Her Majesty's Post Office in the performance of their duty, who shall blow any horn or use any other noisy instrument, for the purpose of calling persons together, or of announcing any show or entertainment, or for the purpose of hawking, selling, distributing, or collecting any article whatsoever, or of obtaining money or alms."

It will be seen that the privilege said to be given to " postmen and guardsmen " was really given to the guards and postmen on the mails, the point being that in 1839, pillar boxes had not come into use. The men in charge of the post office collecting vans still blew a " post horn," the guards of coaches carrying long distance mail used a horn both for the purpose of collecting letters at their pick up points and to clear the road of slower traffic. The exception given to them, in the performance of their duty, from the penal provisions directed against some other noises relates, obviously, to the first limb only of the section, although the subject of the sentence ought to have been repeated before its second limb, and this defective draftsmanship makes it grammatically possible to read the exception into later limbs—hardly into the last, since gathering alms is no part of their duty. The charge which Mr. Daniel Hopkin had to deal with at Marlborough Street was against a street musician, whose defence was that he did not solicit alms at all, but gave a competent performance on his instrument, for which he received, and indeed (by a placard round his neck) unashamedly solicited, fees like any other artist. The defence failed before the magistrate, but at quarter sessions it prevailed ; upon the construction of the section and the extending provision in s. 1 of the Metropolitan Police Act, 1864, it seems right that it should prevail, if the court is satisfied upon the facts. True, there is as everybody knows a great deal of sheer mendicancy in London streets, under a thin colour of musical performance : much of this has been tolerated on compassionate grounds, especially when the mendicants have claimed to be ex-service men, or unemployed—although there have been scandalous " rackets " in this matter, with exploitation of men brought to London for the purpose.

Art or Alms

We suspect that the general run of street performers, even those who are professional musicians, look upon appearance in court and a small fine much as the tax-payer looks upon his income tax, or the seaside shopkeeper upon recurring fines for Sunday trading—it is easier to pay up than to fight. Rayinski, the successful appellant in the recent case, was of stouter fibre.

The argument advanced on his behalf, that in the Act of 1839, Parliament was not aiming at the genuine artist who took fees for making music in the street is borne out by the Act of 1864. Throughout the Victorian era "German bands" were common, and towards the turn of the century, and later, Italian organ grinders were still commoner. No doubt there were also plenty of street performers who were British. That they were not regarded as infringing the Act of 1839 is shown by s. 1 of the Act of 1864, which runs as follows: "Any householder . . . personally or by his servant or by any police constable may require any street musician or street singer to depart from the neighbourhood of the house of such householder, on account of the illness or on account of the interruption of the ordinary occupations or pursuits of any inmate of such house, or for other reasonable or sufficient cause." It will be seen that Parliament recognized that the street musician could be troublesome, and gave fresh powers for constables to deal with him at the instance of a householder. But bare complaint is not enough. The householder must be prepared to state his reasons; the constable can arrest, but only at the express request of a householder, and following arrest a charge cannot be accepted unless the complainant goes with the constable to the station and signs the charge sheet. This is a potentially valuable precedent, which might be followed in some other matters.

Street Photographers

Readers visiting London on the business of their councils, and/or for their own amusement, have been struck by an increase in the numbers and persistency of street photographers, especially in Trafalgar Square and neighbouring streets. There are no doubt two causes, the Festival and the judgment in *Newman* v. *Lipman* [1950] 2 All E.R. 832; 114 J.P. 561, decided in October of last year, when the Divisional Court followed Gairs, in holding that the sale of the corporeal object is not the true nature of the contract between an artist and a patron, with the result that the transaction was not caught by s. 29 of the London County Council (General Powers) Act, 1947. That section deals with trading in the street from a stationary position, and "selling or exposing or offering for sale any article or thing," and the view had been widely held that this particular form of trading, though tolerated in practice, could be stopped by use of the statute if it became seriously troublesome. We are informed that since the Court's decision the city council of Westminster have been giving some attention to framing a byelaw on the subject, and information sent to us, about the activities of street photographers in Westminster, suggests that, if a byelaw had come into force before the Festival visitors arrived, it would have been welcome to people going about the streets in the ordinary way. Persons who feed the pigeons in that part of Trafalgar Square which is not a highway, or pose beside the Landseer lions, cannot have much of a grievance if photographers solicit them. There is, however, a real grievance, when a pedestrian is seized by the arm while walking normally along an ordinary pavement, and finds a memorandum pad thrust into her face with an urgent appeal to write her name—and the address for sending a photograph which had been taken without her consent. Similar practices in Paris some months back led, according to the London papers, to drastic police action which the Prefect explained as due to his suspicion that such photographs were used for blackmail. This seems far fetched, since the street photographer can seldom know who his victim is, or whether the latter's presence in Paris or London would be worth paying to conceal. The blackmail danger need not be considered in the London context, but these photographers seem a worthless lot, performing no good service to the public. If the city council can take some effective step to confine them to places where people go with a desire to be photographed, and then to rid the ordinary pavements of their importunity, the visiting public (and, we doubt not, London residents and London workers) would be grateful.

FOOD AND DRUGS ACT, 1938: AN UNDECIDED POINT

SECTIONS 80 (3) AND 83 (1)

By J. E. S. RICARDO, *Barrister-at-law*

Despite the spate of litigation which has resulted from the Food and Drugs Act there are still a number of difficult points arising from the 1938 Act which have not as yet been subjected to authoritative decisions and which are likely to be a source of considerable difficulty to justices and their clerks.

One of these undecided points which is of great importance and which may well be raised in many prosecutions under the Act, is whether a person who is brought before the court by another person against whom proceedings have been brought by virtue of the provision of s. 83 (1) of the Act, is entitled to the protection of s. 80 (3) of the Act and must therefore be served with a copy of any certificate of analysis that may have been obtained on behalf of the prosecution.

Section 80 (3) of the Act provides that "in any proceedings under this Act in respect of an article sampled, the summons shall not be made returnable less than fourteen days from the day on which it is served and a copy of any certificate of analysis obtained on behalf of the prosecution . . . shall be served with the summons."

Section 83 (1) provides that "A person against whom proceedings are brought under this Act shall upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention be entitled to have any person to whose act or default he alleges that the contravention of the provision in question was due brought before the court in the proceedings . . ."

The proceedings by the prosecution against the original defendant and other parties brought in by the original defendant have been held by the Divisional Court on many occasions (*E.G.R.* v. *Recorder of Derby*; *Ex parte Spalton* [1944] K.B. 611, and *Elkington* v. *Kesley* [1948] 1 All E.R. 786) to constitute one set of proceedings. It has therefore been argued that if a certificate of analysis has once been served on the original defendant, there is no necessity for a copy of the certificate to be served on third parties brought in by the machinery of s. 83 (1), and all an original defendant need do is, following the words of s. 83 (1), to lay his information and give the prosecution three days' notice. This argument at first sight appears attractive but it is suggested that in fact the contrary view is the correct one for the following reasons:

(*a*) Section 80 (3) purports to state what must be done "in any proceedings under this Act . . ." These words are very wide and it is suggested that they cover the proceedings by the original defendant against the third party under s. 83 (1) for,

although there may be only one set of proceedings, as Lord Caldecote, C.J., said in *British Fermentation Products Ltd.* v. *British Italian Trading Co.* [1942] 2 K.B. 145, a third party is in his turn " a person whom proceedings are brought under this Act " and the laying of an information against him by the original defendant constitutes " fresh proceedings " and must therefore be within the term " any proceedings " in s. 80 (3).

(*b*) Unless the certificate of analysis is served with the summons the third party may be unaware of its existence and therefore unable to exercise his rights under s. 81 (1) and (3) of the Act to require that the analyst shall be called as a witness and to put in a certificate himself in reply.

(*c*) A manufacturer against whom proceedings are brought direct by a prosecutor under s. 83 (3) of the Act is obviously entitled to a copy of the certificate with the summons and though not entitled to a part of any sample taken can insist on strict compliance with the provisions of the sampling procedure (*British Fermentation Products Ltd.* v. *Teal*) [1943] 1 All E.R. 331. It is illogical to suggest that a manufacturer should be in a better position if he is proceeded against under s. 83 (3) than under s. 83 (1).

Failure to comply with the provisions of s. 80 (3) and to serve a copy of the certificate with the summons is fatal if the objection be taken at once (*Grimble* v. *Preston* [1914] 1 K.B. 270). If the objection is not taken at once, it will be deemed to have been waived and the justices will not be deprived of jurisdiction.

Until such time as the question has been resolved by the Divisional Court, defendants who wish to bring other persons before the court in a prosecution where a certificate of analysis has been obtained would be wise to ensure that a copy of such certificate is served with the summons, for although such procedure may be held to be unnecessary, it cannot in any way invalidate the proceedings, whereas failure to serve the copy certificate may well lead to the escape of the real culprit, and possibly for an order for costs against the original defendant or alternatively the added expense of being involved in an appeal to the Divisional Court.

EDUCATED POLITICAL ACTIVITY

Mr. Michael Oakeshott, the new professor of political science in the University of London, chose " political education " as the title of his inaugural lecture delivered on March 6 and now published (at a price of 2*s.* 6*d.*) by Messrs. Bowes and Bowes of Cambridge. By this he means, not the indoctrination " by which whole populations have been reduced to submission " (of which he speaks as having gone on " in other places than this," but which is in truth going on around us and within us all the time, in England as elsewhere) but a process of inquiry " into the kind of knowledge we unavoidably call upon," whenever we are engaged in political activity.

After analyzing what he regards as two misunderstandings of the nature of political activity, he comes down to a description of it. Since at least the time of Aristotle men have been concerned with politics, and have needed to know of what they were talking when they used that word. To Professor Oakeshott it means " the activity of attending to the general arrangements of a collection of people who, in respect of their common recognition of a manner of attending to its arrangements, compose a single community." This is rather clumsy but intelligible : a collection of people without recognized traditions of behaviour, " or one which enjoyed arrangements which intimated no direction for change and needed no attention," would in the Professor's opinion be incapable of politics. The first part of his sentence seems right—a collection of people each doing what suited him, without regard to any general pattern, would not be a political community. We are not so sure that a community so content with its " arrangements " that it saw no need for change would necessarily be a non-political community. Granting, however, that politics must be active, the activity springs (says Professor Oakeshott) neither from instant desires, nor from general principles, but from the existing traditions of behaviour themselves. And the form it takes, because it can take no other, is " the amendment of existing arrangements by exploring and pursuing what is intimated in them." At the outset of his lecture Professor Oakeshott made appropriate mention of his predecessors, Professors Graham Wallas and Laski : both men were actively engaged in the political controversies current in their day. Whether the new professor shares their views, or has ever taken part in active politics, we do not know, and are not informed by the normal books of reference, but whatever his personal position the whole trend of this lecture is against bringing traditional methods of advance to the test of comparing them with *a priori* notions. Every society (he says) which is intellectually alive is liable from time to time to abridge its tradition of behaviour into a scheme of abstract ideas ; and on occasion political discussion will be concerned not (like the debates in the Iliad) with isolated transactions, nor (like the speeches in Thucydides) with politics and traditions of activity, but with general principles. And in this there is no harm ; perhaps even some positive benefit. " It is possible that the distorting mirror of an ideology will reveal important hidden passages in the tradition, as a caricature reveals the potentialities of a face ; and if this is so the intellectual enterprise of seeing what a tradition looks like when it is reduced to an ideology will be a useful part of political education." Not everybody will agree that testing one's innate convictions by comparing them with general principles is like using a distorting mirror : it is just as easy to say that it is like standing beside the Apollo Belvedere or Venus de Milo (according to one's sex) and looking in a mirror. In other words, it is at least intellectually conceivable that it is a valuable and even a cathartic exercise to measure (let us say) the North Atlantic phenomenon of a capitalist organization coupled with representative institutions, against " democracy " in its original sense, or against National Socialism. Although we are inclined to agree with the Professor that " broadening down from precedent to precedent " is more than " normal," and may well be " necessary " in practice, we are not convinced that he strengthened his case (for regarding as a fundamental part of politics the activity of exploring and pursuing the intimations of a tradition of behaviour) by posing against himself a possible argument from a political crisis, such as the Norman Conquest of England, or even the establishment of the Soviet regime in Russia. It would be foolish, he admits, to deny the possibility of serious political crisis, but we do not see why he should regard a cataclysm as for the time being making an end of politics, if that cataclysm altogether obliterates a current tradition of behaviour. In point of fact, such obliteration is unlikely, because (as he says) even the most serious political upheaval does not carry mankind outside its tradition of behaviour, in the sense of its manner of doing ordinary things.

Point has now been added to this passage by a recent broadcast upon Russia's engrossing of her satellites : this was not in

truth a sudden process—all the satellites had a tradition of dependence and, when the "democratic" capitalistic powers had destroyed the middle European empires, it was inevitable that the majority of middle European states (being inaccessible by sea power) should fall into the Russian orbit. And as regards the Norman Conquest the thing is even more demonstrably true—more demonstrably because the process can be studied, as contemporary revolutions cannot, as a whole. For the reason given here, rather than because a complete reversal of traditional trends would be an end of "politics," we welcome Professor Oakeshott's analysis of political activity and the appropriate sort of education. The first thing to study is the tradition of political behaviour in the community to be dealt with, and a tradition of behaviour is a tricky thing to get to know. It is at the moment fashionable for the international organs recently established to pretend to test human behaviour in one sort of community by the modes of thought developed in another, and the communities which have themselves developed representative institutions of a certain pattern find it hard to imagine that those institutions may be unsuitable to communities of different origins and history. Hence what the Professor calls "one of the most insidious current misunderstandings of political activity"—the misunderstanding by which institutions and procedures appear as pieces of machinery designed to achieve a purpose settled in advance, instead of as manners of behaviour which are meaningless when separated from their context: the misunderstanding, for example, by which Mill convinced himself that something called "Representative Government" was a "form" of politics which could be regarded as proper to any society which had reached a certain level of what he called civilization. We greatly fear that some of the "political activities" of Lake Success, echoed in Downing Street and re-echoed round the Globe, or (as the Professor calls the process) "ranging the world in order to select the 'best' of the practices and purposes of others" will in his words prove a corrupting enterprise and one of the surest ways of losing one's political balance. "To investigate the concrete manner in which another people goes about the business of attending to its arrangements may reveal significant passages in our own tradition which might otherwise remain hidden."

CHIEF CONSTABLES' ANNUAL REPORTS, 1950

(*Continued from p. 436, ante*)

35. HUDDERSFIELD

The area is 14,147 acres and the population 123,048. The strength at the close of the year was 164, including three policewomen. Twenty civilians are engaged with the force. Twenty-two probationers were appointed, six men retired on pension and seven resigned; there are fifteen vacancies. The actual establishment of special constables is 118.

Criminal offences totalled 1,149, of which 646 were detected; in the year before there were 835 of which 447 were detected. There were 107 juveniles dealt with for indictable offences, that is six more than in 1949.

Road accidents caused twelve deaths and injuries to 382 people; in addition there were 854 accidents not involving injuries. The year before respective figures were fifteen, 325 and 826.

Sixty-three people were charged with drunkenness, against thirty-nine in 1949.

36. MONMOUTHSHIRE

The administrative county has an estimated population of 319,928 and the area is 340,110 acres. The authorized strength of the force is 369, including seven policewomen; an additional number of men (eleven sergeants and five constables) are engaged at collieries and other industrial establishments. There are 327 special constables. During the year seventy-five applications for appointment were received of which forty-one were accepted. Thirty-nine men left the force, twenty to go on pension.

Indictable offences reported numbered 3,244 of which 2,276 were detected; for 1950 the total was 3,016. Juveniles dealt with for crime totalled 505.

The total of road accidents was 1,477 and as a result nineteen adults were killed and 798 injured; in addition there were five child fatalities and 261 children injured. The corresponding figures for 1949 were 1,098; twenty-three; 638; thirteen and 241.

There are 760 licensed premises in the county, and 199 registered clubs with 71,034 members. Eighty-four persons were charged with drunkenness against forty-six in the previous year. Twenty-three people were charged and eighteen convicted of driving whilst under the influence of drink. The year before the figures were eleven and nine.

The report embodies an unique feature in an appendix; it gives a brief history of the county constabulary and some interesting references to conditions of service in those early days of the constabulary.

37. LEEDS

The area of the city is 38,293 acres and the population 482,827. Authorized establishment is 833 including twenty policewomen, and the actual strength at the end of the year was 812. Sixty-seven probationer constables were engaged during the year.

Indictable offences totalled 5,127 compared with 4,797 in 1949; forty-eight *per cent.* were detected. Property concerned in these offences was valued at £46,915 and the amount recovered £11,540. The year before the figures were £41,670 and £12,933 respectively. The number of juveniles concerned in crimes fell from 739 to 600.

Road accidents caused fifty-seven deaths and injuries to 1,788 people, an increase of twenty-four fatalities and 173 injured.

There are 838 licensed premises, and 190 clubs with a membership of 114,614. Fifty-four persons were convicted of driving whilst under the influence of drink.

38. SALFORD

The population is 223,438, and the area 5,202 acres. Establishment is 354 and the number engaged 311. Of 230 male applicants thirty-six were selected, and of seventeen women three were engaged. The report comments: "... It is not by any stretch of the imagination an indictment of the qualities of modern youth; it is merely further evidence that the police service is just not attractive enough to the right type of individual ..."

Criminal offences numbered 1,936 an increase of 105; sixty-three *per cent.* were detected. The value of property concerned was £34,155 of which £17,677 was recovered. Juveniles dealt with numbered 123 against 144 in 1949.

Road accidents caused eight deaths compared with twenty-five the year before; 443 were injured, which is an increase of twelve.

39. KENT

The area of the county is 921,684 acres and the population 958,701. The official establishment of the force is 1,787 including forty-five policewomen, and the actual number engaged at the end of the year 1,427. The intake totalled 117 men and eight women, whilst retirements and resignations involved fifty-eight men and four women. The strength of the Special Constabulary was 2,163 of whom 935 were regularly employed on police duty.

Indictable offences reported were 12,768 compared with 14,738 in 1949; but after initial inquiries the actual number of crimes was 11,238 a decrease of 1,845. Fifty-five *per cent.* were detected. The property concerned was valued at £133,811, and that recovered at £24,991. Juveniles dealt with numbered 854.

There are 3,219 licensed premises, and 638 registered clubs with 185,258 members. Charges of drunkenness were 119, one less than in the year before.

Road accidents increased from 9,169 to 10,683, and casualties from 4,644 to 5,381, but there were twenty fewer people killed.

40. SHEFFIELD

The population is 511,757, and the area 39,598 acres. Authorized establishment is 780, including sixteen policewomen, and there are eighty vacancies. Civilians engaged with the force number sixty-six. Special constabulary establishment is 1,560 of which 201 have been recruited.

Crimes reported totalled 4,408, in 1949 there were 4,987; fifty-two *per cent.* were detected. Property involved amounted to £54,715 of which £14,843 was recovered; the sums for the previous year were £58,544 and £12,856 respectively. Juveniles dealt with numbered 339, compared with 376.

Road accidents were 5,257; the figure for the year before was 4,750. Forty-four people were killed and 1,864 injured, increases of ten and ninety-nine respectively.

There are 1,195 licensed premises in the city and 133 registered clubs with 110,381 members. Charges of drunkenness totalled 268, an increase of seventy-four.

41. NEWCASTLE-UPON-TYNE

The area of the city is 11,401 acres and the population 293,600. The authorized strength of the force is 503 and the actual number engaged 471. Sixteen policewomen are doing duty and there is one vacancy. Thirty-two probationers were engaged from seventy-five applicants interviewed, and 264 inquiries to join the force were received. There are 171 special constables.

Indictable offences numbered 3,595 against 3,013 in 1949; the property concerned was valued at £47,400 of which £7,830 was recovered.

Street accidents totalled 1,411, an increase of 206; twenty-five people were killed and 696 injured, that is an increase of twelve fatalities and a decrease of thirty-five injured as compared with the year before.

Licensed premises number 470 and there are 144 registered clubs. Prosecutions for drunkenness concerned 1,356 men and 157 women, compared with 872 men and 117 women in 1949. This is 830 above the average for the last ten years.

THE ENGLISHMAN'S HOME

By W. E. LISLE BENTHAM

" The house of every one is to him as his castle and fortress, as well for his defence against injury and violence, as for his repose."

So ran the first resolution of the learned judges of the King's Bench in *Semayne's Case* (1604) 5 Co. Rep. 91a, thus crystallizing the ancient maxim which is now more colloquially expressed as: " An Englishman's home is his castle "; but they forthwith proceeded to find exceptions to this general rule. Their second resolution makes it clear that, after an order for possession of a house has been obtained, the court officer executing the ejectment warrant may, if necessary, " break the house," *i.e.*, make forcible entry upon the premises, for " after judgment it is not the house, in right and judgment of law, of the tenant or defendant." Moreover, under their third resolution, " in all cases when the King is party, the sheriff (if the doors be not open) may break the party's house either to arrest him, or to do other execution of the King's process, if otherwise he cannot enter, but, before he breaks it, he ought to signify the cause of his coming and to make request to open upon the doors." Hence, no doubt, the old cry of " Open, in the King's name ! "

On the other hand, the case establishes the rule that the officer may not forcibly enter the judgment debtor's house merely for the purpose of levying execution upon his goods and chattels at the suit of a private party; otherwise, in the quaint but clear language of Sir Edward Coke's report: " thence would follow great inconvenience, that men as well in the night as in the day should have their houses broke, by colour whereof great damage and mischief might ensue; for by colour thereof, on any feigned suit, the house of any man, at any time, might be broke when the defendant might be arrested elsewhere, and so men would not be in safety or quiet in their own houses; and, although the sheriff be an officer of great authority and trust, yet it appears, by experience, that the King's writs are served by bailiffs, persons of little or no value (*sic*), and it is not to be presumed that all the substance a man has in his house, nor that a man would lose his liberty, which is so inestimable, if he has sufficient to satisfy his debt."

From the notes to *Semayne's Case* in volume 1 of *Smith's Leading Cases* (12th edition) at p. 121 onwards, it appears that the court officer may be justified in breaking into the house of a third person, after request made, in order to execute process of the law upon the defendant or his property removed thither to avoid an execution, but that he does so at his peril, for if it turns out that the defendant is not in the house, or has no property there, the officer would be a trespasser (*see* also *Sheers* v. *Brooks* (1792) 2 Hy. Bl. at pp. 122, 123). An illegal entry, be it noted, does not render an execution on goods invalid, but merely renders the officer liable to an action for trespass, and the same applies to a distress for rates (Poor Relief Act, 1743, s. 8).

Having obtained lawful admission to the debtor's house, however, the officer may break open inner doors, *e.g.*, the door of a lodger's room, or cupboards, trunks, etc.: *Hutchison* v. *Birch* (1812) 4 Taunt. 619; *Hodder* v. *Williams* (1895) 2 Q.B. 663. Since the rule extends only to a dwelling-house, the officer may break into a barn or outhouse not within the curtilage of the house itself (*Hodder* v. *Williams*, *supra*), but this does not apply in cases of distress for rent by a bailiff, who may not break any outer door or building: *Brown* v. *Glenn* (1851) 16 Q.B. 254; *American Concentrated Meat Corporation* v. *Hendry* (1893) 57 J. P. 788, C.A., affirming the judgment of Bowen, L.J., at p. 521,

in which he dealt exhaustively with the matter, although he may climb an outer wall : *Long* v. *Clarke* (1894) 58 J. P. 150.

The duties and liabilities of the officers of inferior courts in the enforcement of warrants in the nature of writs are at common law the same as those of the sheriff (*Jelks* v. *Hayward* [1905] 2 K.B. 460) but, as regards county court bailiffs, they are now statutory (*see* County Courts Act, 1934, Part VI, ss. 116 to 148). As regards possession warrants, the only difference seems to be that the duty of the sheriff is to remove both persons and goods, whereas s. 120 of the County Courts Act provides that the bailiff need not remove any goods or chattels from the premises : *Upton* v. *Wells* (1589) 1 Leon. 145, but the position has, of course, been radically altered by the Rent Restrictions Acts and, although the court officer is still protected by the effect of the decision in *Howard* v. *Gosset* (1847) 10 Q.B. 359, he ought not to evict any person, other than the defendant and his immediate family, who may appear to be a sub-tenant entitled to the protection of the Acts and who was not made a party to the proceedings because, by virtue of s. 15 (3) of the 1920 Act, such sub-tenant is deemed to become the tenant of the landlord : *Haskins* v. *Lewis* (1931) 95 J.P. 57 ; *Williams* v. *Williams and Nathan* [1937] 2 All E.R. 559. A sub-tenant is not protected and can be evicted, however, in cases where the premises are either Crown property : *Rudler* v. *Franks* (1947) 111 J.P. 190, or owned and orginally let by a local housing authority ; *Percy G. Moore Ltd.* v. *Stretch* [1951] 1 All E.R. 228. On application by originating summons for recovery of possession of mortgaged property, the mortgagee should at least give notice of the proceedings to any stranger whom he discovers to be in occupation, so that the latter may apply to be added as a defendant : *Leicester Permanent Building Society* v. *Shearley* (1950) T.L.R. (Pt. 2) 316 (*Estates Gazette*, August 12, 1950, p. 129), per Wynn-Parry, J., applying *Minet* v. *Johnson* (1890) 6 T.L.R. 417 ; *Martins Bank* v. *Kavanagh* [1948] 2 All E.R. 448, and *Alliance Building Society* v. *Varma* [1949] 2 All E.R. 261, C.A.

No matter what the financial position of an occupier may be, it seems that his home is at least exempt from intrusion by the court officer on Sundays (Sunday Observance Act, 1677, s. 6), although apparently not on Good Friday, Christmas Day, or Bank Holidays, but search warrants and warrants for the arrest of a person charged with a criminal offence can be issued and executed at any time (Indictable Offences Act, 1848, s. 4 ; Criminal Justice Act, 1925, s. 44).

Since *Semayne's Case* various onslaughts have been made against " the castle " in the form of powers of entry conferred by statute upon a number of authorities and their officials. Such powers are necessary for the protection, and to legalize the actions, of, *e.g.*, gas, water, electricity, housing, sanitary, and other inspectors, which might otherwise constitute a trespass upon the premises, but, except in cases of emergency or in respect of particular premises, they are usually exercisable only after notice to the householder and at reasonable hours or, if access is refused, upon warrant granted by a magistrate. Some of these are set out and discussed at 110 J.P.N. 68 ; instances are the powers contained in s. 157 of the Housing Act, 1936, and s. 287 of the Public Health Act, 1936, and it is perhaps noteworthy that the only instances where under the latter Act existing absolute rights of entry without notice have been preserved are s. 191 relating to nursing homes, s. 241 relating to common lodging-houses, and s. 255 relating to canal boats. Thus, the legislature has always taken care jealously to safeguard the interests of the householder and the courts have frowned upon any attempt by officials to exceed their express authority. Accordingly, any abuse of a right of entry renders the officer a trespasser *ab initio*, so that he may be sued as if his original entry was unlawful : *Six Carpenters' Case* (1610) 8 Co. Rep. 146a, as may also a sheriff who outstays his welcome by remaining on the premises for more than a reasonable time : *Ash* v. *Dawnay* (1852) 8 Exch. 237.

This aspect of the matter was recently considered in the case of *Grove* v. *Eastern Gas Board* (*The Times*, May 29, 1951), in which an officer of the Board, after several unsuccessful attempts to obtain an appointment with the occupier, had forcibly entered his house during his absence by temporarily removing a front window-pane for the purpose of inspecting the gas meter and fittings, ascertaining the quantity of gas consumed and clearing the coin box of the meter. The question at issue was whether para. 34 (1) of sch. 3 to the Gas Act, 1948, authorized an entry which would otherwise have been unlawful and, in particular, whether the duly authenticated document which that paragraph requires the inspector to have must be produced to the occupier before entry. The learned judge (Hilbery, J.) found that, broadly speaking, the intention of the Gas Act, 1948, was to confer on area gas boards similar powers of entry to those which had been possessed by undertakers under the previous gas legislation and that the requirement of para. 34 was that the official should call at reasonable times and produce his authority to anyone authorized to demand its production, such as a police constable, or even a member of the public who suspected that a felony was being committed ; the document was a safeguard against the unlawful entering of premises by persons pretending to be officials of gas boards.

Perhaps the greatest invasion of the rights of the householder to the quiet enjoyment of his own home is that constituted by the powers of requisitioning conferred on " the competent authority " and delegated by him to local authorities under the provisions of Defence Regulation 51, which were fully considered in an article at 114 J.P.N. 368. These wide powers were a necessary adjunct to the war and to the consequent housing shortage and by S.I. 1950 No. 1769 have been further extended until December 10, 1951. Under them the householder is deprived, not only of privacy, but also of the use of the house itself, and relegated to a claim for compensation under s. 2 of the Compensation (Defence) Act, 1939, as his only remedy. In the absence of bad faith, ulterior motive, or, possibly, perverseness on the part of the requisitioning authority, he cannot question the unrestricted discretion which such authority has to put his property to any use which may be considered necessary and expedient to effect the purpose of the requisition, such as the felling of his trees, structural alterations, demolition of outhouses, and the like : *Demetriades* v. *Glasgow Corporation* [1951] 1 All E.R. 457, H.L. Nevertheless, the exercise of these sweeping powers has been sucessfully challenged in several cases in the courts, though chiefly on the ground of some defect in procedure on the part of the competent authority or his delegate ; for instances, *see Blackpool Corporation* v. *Locker* [1948] 1 All E.R. 85 ; 112 J.P. 130 (no notice to owner to remove or store his furniture, failure to consider representations by the owner as to his desire to occupy the premises himself, and inability of the Minister to ratify the illegal requisition of his delegate) ; *Taylor* v. *Worden* (*Estates Gazette*, May 6, 1950, p. 383), (requisition notice not in prescribed form) ; and *Gwyrfai R.D.C.* v. *Williams* (1950) 100 L.J.N. 360 (absence of proof of service of copy delegation on owner). These are, however, but temporary powers of an exceptional nature which will eventually be withdrawn.

It is satisfactory to find that such a fundamental principle of law as the inviolability of the English home, which has subsisted almost from time immemorial, has, in the main, remained untouched throughout the years as an outstanding example of the manner in which British jurisprudence has preserved the rights and liberties of the subject.

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Sir Raymond Evershed, M.R., Jenkins and Birkett, L.JJ.)
July 10, 11, 1951

COCKRAM *v.* TROPICAL PRESERVATION CO., LTD.

Rates — De-rating — Industrial hereditament — Packing — Treatment of article for transport abroad—"Adapting for sale"—Alteration of character of article—Factory and Workshop Act, 1901 (1 *Edw.* 7, *c.* 22), *s.* 149 (1) (*c*) (iii)—*Rating and Valuation (Apportionment) Act*, 1928 (18 *and* 19 *Geo.* 5, *c.* 44), *s.* 3 (1).

CASE STATED by Lands Tribunal under the Lands Tribunal Act, 1949, s. 3 (4).

Premises belonging to the respondents at Chipping Warden, Northamptonshire, were used by them to pack, and give ancillary treatment to, parts of motor vehicles for government departments and manufacturers who were under contract to deliver packed articles to such departments. The packing was an elaborate process, more complicated than ordinary commercial packing, and was carried out as prescribed by departmental specifications. The articles for packing delivered to the respondents were already fit for sale and use in this country, and the object of the treatment of the articles was to ensure that the contents of the packages would be in satisfactory condition for use abroad by protecting the articles against excessive humidity, extremes of temperature, and other hazards of transit and storage. The local valuation court transferred the hereditament to Part II of the valuation list with a net annual value of £280, apportioned to industrial purposes £267 and to non-industrial purposes £13. The appellant, a valuation officer, appealed to the Lands Tribunal on the ground that the hereditament was not occupied and used as an industrial hereditament within the meaning of the Rating and Valuation (Apportionment) Act, 1928. On March 1, 1951, the Lands Tribunal dismissed the appeal, holding that the premises were an industrial hereditament because the occupier contracted to supply articles packed and treated in a special way designed to meet the requirements and needs of the customers, and, therefore, the treatment of the articles constituted "adapting for sale" within the meaning of s. 149 (1) (*c*) (iii) of the Factories and Workshop Act, 1901.

Held, the proper test to be applied was that laid down by LORD DUNEDIN in *Grove* v. *Lloyd's British Testing Co., Ltd.* (95 J.P. 115; [1931] A.C. 450), where the noble Lord said: "I think adapting for sale points clearly to something being done to the article in question which, in some way, makes it in itself a little different from what it was before"; it could not be said that the packing of an article was necessarily no more than a mere prelude to distribution; whether the packing of an article made it a little different was *prima facie* a question of fact; the Lands Tribunal had applied the proper test and was justified in concluding in the special circumstances of the case that LORD DUNEDIN'S test was satisfied; and, therefore, the appeal failed.

Appeal dismissed.

Counsel: *Erskine Simes, K.C.*, and *Patrick Browne* for the valuation officer; *Ramsay Willis* for the ratepayers.

Solicitors: *Solicitor of Inland Revenue*; *Gregory, Rowcliffe & Co.*, for *Wright, Hassall & Co.*, Leamington Spa, for the ratepayers.

(Reported by F. Guttman, Esq., Barrister-at-Law.)

KING'S BENCH DIVISION

(Before Lord Goddard, C.J., Hilbery and Devlin, JJ.)
July 9, 1951

R. *v.* FULHAM, etc., RENT TRIBUNAL. *Ex parte* MARKS

Rent Control—Rent tribunal—Jurisdiction—Dwelling-house within Rent Restriction Acts—Standard rent ascertained—Subsequent letting as furnished premises—No power in tribunal to reduce rent below standard rent—Furnished Houses (Rent Control) Act, 1946 (9 *and* 10 *Geo.* 6, *c.* 34), *s.* 2 (2), *s.* 7.

APPLICATION for order of *certiorari*.

On January 24, 1938, a house, 20 Chepstow Villas, London, W., was already divided into flats let separately, of which one, on the ground floor, was the subject of the present application. That flat was then, and still was, a separate dwelling to which the Rent and Mortgage Interest Restrictions Acts, 1920-1939, applied. On January 24, 1938, the applicant, Mrs. R. A. Marks, became the owner of the house. The standard rent of the ground-floor flat was then, and still was, £3 3*s.* a week. The applicant had let the flat unfurnished from February, 1938, to February, 1940, at that standard rent. In July, 1950, the applicant let the flat furnished to Mr. and Mrs. D. G. Vallis for their occupation with the use of a bathroom and w.c., electric light, hot water, and the benefit of the maintenance by the landlord of common parts of the premises at a rent of £2 15*s.* a week. On July 28, 1950, the applicant gave those tenants notice to quit. Mr. Vallis thereupon applied under the Furnished Houses (Rent Control) Act, 1946, s. 2 (1), to the Fulham, etc., Rent Tribunal for a reduction of the rent, and on September 13, 1950, the tribunal reduced the rent from £2 15*s.* to £1 5*s.* a week. The applicant now applied for an order of *certiorari* to quash the order of the tribunal as having been made in excess of jurisdiction.

Held, that as both the standard rent under the Rent Restriction Acts and the rent fixed and registered by a tribunal sitting under the Act of 1946 attached to the premises *in rem*, the tribunal had no jurisdiction to reduce the rent of the premises below the standard rent, since to do so would "affect" the provisions of the Rent Restrictions Acts, contrary to the provisions of s. 7 of the Act of 1946. The tribunal, therefore, had acted without jurisdiction, and the order of *certiorari* must issue.

Counsel: *de Ferrars* for the applicant; *J. P. Ashworth* for the tribunal.

Solicitors: *T. Richards & Co.*; *Solicitor, Ministry of Health.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

NEW COMMISSIONS

NORFOLK COUNTY

Mrs. Doris Emily Alexander, Cromer Road, Holt.
Herbert George Andrews, Lynn Hill, Yaxham Road, Dereham.
Arthur Attoe, 2, Council Houses, Briston.
Mrs. Hilda May Balders, Near Church, Great Massingham.
Cecil Fred Bennett, M.C., High Street, Downham Market.
Leslie Joseph Bingley, Mount Pleasant, Drayton Road, Lower Hellesdon.
Lady Sylvia Beatrice Combe, The Manor House, Burnham Thorpe.
Thomas Henry Corley, 4, New North Road, Attleborough.
Major George Ernest Daniels, The Hollies, Hemsby, Norfolk.
Mrs. The Hon. Mary Elizabeth Doggett, The Gables, Dersingham.
Andrew Bruce Douglas, Farfield, Cromer Road, Holt.
Major Charles Fellowes, Shotesham, Norwich.
Miles Robert Formby, The Cedars, Long Stratton, Norwich.
Thomas William Gasson, The Stores, Long Stratton, Norwich.
Mrs. Ruth Mary Henderson, Intwood.
Brigadier Keith Wikson Hervey, East Bilney Hall, Dereham.
Squadron Leader George William Holderness, D.F.C., Hillside Farm, Shotesham, Norwich.
Mrs. Catherine Lilla Ives, Greenways, Frenze Road, Diss.
Mrs. Annie Jewson, Low Road, Hellesdon.
Mrs. Muriel Graham Lacon, Ormesby Hall, Ormesby.
Frederic Robert Arthur Larder, High Street, Loddon.
General Sir Henry Charles Loyd, K.C.B., K.C.V.O., D.S.O., M.C., Geldeston Hall, nr. Beccles.
Gravenor Neville, Cottesmore House, Quebec Road, Dereham.
Frederic Thomas Nicholson, Foxburrow Farm, North Elmham.
Miss Emily Margaret Peacock, South Runcton.
Miss Eleanor Sara Peck, The Cottage, Smallburgh.
Mrs. Olive Sands, 2, Bluestone, South Creake, nr. Fakenham.
Mrs. Jessie Catherine Sheringham, Rownsend House, Wereham, King's Lynn.
Captain Michael Edward Bowyer Sparks, Gunthorpe Hall, Melton Constable.
Lady Elizabeth Pamela Audrey Townshend, Raynham Hall, Fakenham.
Robert Walter Yaxley, 6, Cecil Road, Dereham.

NORTHAMPTON COUNTY

Frederick Boulton, Manor Farm, Isham, Wellingborough.
Mrs. Helen Marjorie Britten, Wellingborough School, Union Road, Wellingborough.
Frederick Charles Chambers, 155, Kingsley Avenue, Kettering.
Lt.-Col. Richard Arthur Collins, D.S.O., Green Park, Woodend, Towcester.
Reginald Fred Hayward, Top Lodge, Kelmarsh, Northampton.
Lionel Pinnock Poole, 127, Wellingborough Road, Great Doddington, Wellingborough.
Captain Leslie Swain Saunders, D.S.O., R.N., Bybrook House, Great Easton, Market Harborough, Leicestershire.
Wing Commander Francis Thomas Stacey, King's Cliffe House, King's Cliffe, Peterborough.
Alan Geoffrey Timpson, White Gate, Pytchley Road, Kettering.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 43

DEFENDANT ADVERTISED PARALYSIS "CURE"

A sixty-six year old man was summoned to appear at Hastings Magistrates' Court recently to answer a charge that he had unlawfully taken part in the publication of an advertisement by means of letters and leaflets referring to an article in terms which were calculated to lead to the use of that article for the purpose of the treatment of human beings for paralysis, contrary to s. 8 (1) of the Pharmacy and Medicines Act, 1941.

For the prosecution, which was initiated by the Pharmaceutical Society, it was stated that an inspector of the Society wrote to the defendant telling him that he had received a leaflet published by him referring to the treatment of infantile paralysis and septic poisoning. He asked defendant for particulars of the treatment and received a reply stating: "The cure I have for infantile paralysis and septic poisoning is just a wonderful medicine, as it tells on the leaflet. Many people paralysed one or two years have been running about in four days." The inspector also received a pamphlet headed: "The world's most successful discovery," which said that a treatment had been found for infantile paralysis and made most extravagant claims.

The defendant was later interviewed by the inspector and agreed that he had sent the letter and leaflet, but stated that at the time he had sent the same he had no knowledge of the Pharmacy and Medicines Act, 1941.

The defendant did not appear, and the justices found the case proved, imposed a fine of £5, and ordered the defendant to pay the sum of £5 5*s*. towards the cost of the prosecution.

COMMENT

Section 8 (1) of the Act provides that no person shall take any part in the publication of any advertisement referring to any article in terms which are calculated to lead to the use of that article for the purpose of the treatment of human beings for any of the following diseases: Bright's disease, cataract, diabetes, epilepsy or fits, glaucoma, locomotor ataxy, paralysis or tuberculosis. The subsection does not apply to advertisements published by a local authority or by any person acting with the sanction of the Minister of Health.

Subsection 2 of the section enacts that it shall be a defence for the person charged to prove that the advertisement was only intended to be brought to the notice of limited classes of persons, *e.g.*, medical practitioners, registered pharmacists, M.P.s, etc.

By s. 10 it is provided that on summary conviction in the case of a first offence a fine of £50 may be imposed and in the case of a subsequent conviction three months' imprisonment and a fine of £100. Subsection 4 of s. 10 provides that no prosecution shall be initiated under s. 8 without the prior consent of the Attorney-General or Solicitor-General.

It will be observed that the operative word in s. 8 is "advertisement." Mr. Logan A. Edgar, clerk to the Hastings Justices, to whom the writer is greatly indebted for this report, mentions that his justices took into account the decision in *Earp* v. *Roberts* (1947) 111 J.P. 55, in reaching their finding.

It will be recalled that in that case Mr. Earp made a claim that an article "Tassa" cured tuberculosis. The claim was made in part in an advertisement and in part in a letter which accompanied a circular. The justices found that the advertisement, the circular and the accompanying letter amounted to an advertisement that "Tassa" was a cure for tuberculosis and convicted. The Divisional Court had no difficulty in deciding that the decision of the justices was correct.

There can be no doubt that the Hastings Justices were correct in applying the principles laid down in *Earp* v. *Roberts*, *supra*, in the case reported above. R.L.H.

No. 44

DEFICIENCY OF FAT IN ICE-CREAM

An ice-cream vendor appeared at Mold (Flintshire) Magistrates' Court on July 9, 1951, charged with selling ice-cream containing only 3.5 *per cent.* fat contrary to the provisions of the Food Standards (Ice-Cream) Order, 1951.

Mr. Haydn Rees, deputy clerk, Flintshire County Council, for the prosecution, stated that the case was one of the first to be brought before the courts under the provisions of the 1951 Ice-Cream Order. The county sanitary inspector had bought ice-cream from the defendant in May last, and the public analyst had certified that it only contained 3.5 *per cent.* fat and was therefore deficient in fat to the extent of thirty *per cent.*

For the defendant, who pleaded guilty, Mr. Seys Llewellyn stated that defendant carried on an old family business which had been in existence for forty years and there had been no previous convictions. He mentioned that it was difficult for small ice-cream manufacturers to see that ice-cream was made with the right fat percentage unless special apparatus was obtained; this apparatus his client was obtaining forthwith.

A fine of £5 was imposed and the defendant was ordered to pay £6 6*s*. costs.

COMMENT

Regulation 2 (1) of the Defence (Sale of Food) Regulations, 1943, gives power to the Minister of Food, if it appears to him expedient so to do, to regulate generally the composition of any food. This regulation was kept in force by the Emergency Laws (Continuance) Order, 1950, and by art. 2 of the 1951 Ice-Cream Order it is provided that the standard for ice-cream is to be as specified in the schedule to the Order. The schedule provides that ice-cream shall contain not less than five *per cent.* fat, ten *per cent.* sugar and 7½ *per cent.* milk solids other than fat.

Article 4 of the Order provides that it shall come into force on March 1, 1951, and is to be construed as one with the Food Standards (General Provisions) Order, 1944.

Article 8 of the 1944 Order provides that infringements of the Order are offences against the Defence (Sale of Food) Regulations, 1943, and reg. 4 of the 1943 Regulations provides that an offence against the regulations shall only be prosecuted summarily and that, subject to this, Part V of the Defence (General) Regulations, 1939, shall apply.

(The writer is indebted to Mr. W. Hugh Jones, Clerk of the Peace and Clerk of the Flintshire County Council, for information in regard to this case.) R.L.H.

No. 45

MINERAL OIL IN MEAT PIES

A defendant appeared at Mold (Flintshire) Magistrates' Court on July 9 last charged with selling for human consumption meat pies containing mineral oil contrary to the provisions of art. 2 of The Mineral Oil in Food Order, 1949, as amended by the Mineral Oil in Food (Amendment) Order, 1950.

For the prosecution, it was stated that the county sanitary inspector purchased a sample of meat pies from the defendant in June last, and the public analyst had certified that the meat pies contained 1.1 *per cent.* by weight of mineral oil which was five and a half times greater than the permitted maximum.

For the defendant, who pleaded guilty, it was stated that the mineral oil had got in with the pies by accident; that every effort would be made to prevent a recurrence and that defendant carried on a family business which had been in existence for some sixty years without any previous conviction.

The bench imposed a fine of £5 and ordered defendant to pay £7 7*s*. costs.

COMMENT

Article 2 of the Order prohibits the using of mineral oil in the composition or preparation of any article of food intended for human consumption, and there is a prohibition against a person selling or having in his possession for sale for human consumption articles of food containing mineral oil.

Article 2 (2) (*a*) excludes from the provisions of the Article cases where the mineral oil contained in the article of food does not exceed 0.2 parts by weight of mineral oil per 100 parts by weight of the article of food, provided the inclusion of the mineral oil is due not to its inclusion as an ingredient in the article of food but to its use as a lubricant or greasing agent on some surface with which the article of food has necessarily to come into contact in the course of its preparation.

By the amending Order of 1950, art. 2 (2) referred to above was amended but the provisions referred to above remain in effect.

(The writer is indebted to Mr. W. Hugh Jones, Clerk of the Peace and Clerk of the Flintshire County Council, for information in regard to this case.) R.L.H.

PENALTIES

Dudley Juvenile Court—June, 1951—shattering a train window with a stone shot from a catapult—fined £1. To pay 10*s*. costs. Defendant a boy aged twelve.

Warwickshire Quarter Sessions—June, 1951—stealing £160 from the War Office—nine months' imprisonment. Defendant, aged

fifty-eight, employed by the War Office as a pay clerk. He had earlier been sentenced to twelve months' imprisonment for stealing money from a corporation when employed as assistant town clerk.

Bath—June, 1951—(1) drunk and disorderly—(2) assaulting a police officer—(1) one month's imprisonment—(2) three months' imprisonment. Defendant aged twenty-three. Four men were required to take him to the police station.

Oldbury—June, 1951—stealing 5*d.* from a seven year old sister—twelve months' probation. To pay 15*s.* costs. Defendant, aged seventeen, described as thoroughly lazy, stole the money from an envelope in which his sister was keeping it as a Sunday School offering.

Oxford—June, 1951—(1) assault, (2) wilfully damaging a window—(1) two months' imprisonment, (2) fined £5, and to pay 10*s.* 10*d.* costs. Defendant, a general dealer, tried to enter a bungalow in which was a woman who refused him admission. He slammed the window trapping her fingers and banged the window until it broke. She then took a kettle of boiling water and poured it over him whereupon he forced the door, rushed in, and punched her knocking her down. Defendant, who had previous convictions including one for common assault and two for wilful damage, gave notice that he might appeal.

Glasgow Sheriff Court—June, 1951—embezzling £200—two months' imprisonment. Defendant, a former Army captain, earned £8 10*s.* a week. He utilized the money to pay some creditors as he had lost £3,000 in a farming venture.

Dudley—June, 1951—assault occasioning bodily harm (two defendants)—each sentenced to six months' imprisonment. Defendants, aged twenty-five and twenty-eight, admitted at the first hearing that they had been drinking immediately prior to the hearing. The case was adjourned until the afternoon in order that the police might see that the defendants returned in good condition. Defendants assaulted a complete stranger knocking him to the ground and kicking him about the head and shoulders with such force that he was unconscious for fifteen minutes. The bench regretted they had no power to award the "cat" as punishment.

MISCELLANEOUS INFORMATION

JUSTICES' CLERKS' SOCIETY

About one hundred members of the Justices' Clerks' Society gathered at Torquay for the society's 112th annual meeting which took place on June 21 and 22, 1951. Reference has already been made (at p. 399, *ante*) to the address of the president, Mr. James Whiteside, of Exeter.

His worship the mayor of Torquay (Alderman E. G. Ely, J.P.) welcomed the conference, and he and the mayoress received members and their ladies at a civic reception and ball at the Marine Spa on the Thursday evening.

On Friday morning the conference was addressed by Sir Granville Ram, K.C.B., K.C., J.P., chairman of the Statute Law Committee, on "Statute Law Reform, with particular reference to Magistrates' Courts." This session was attended by his worship the mayor of Torquay and a number of other local justices.

Mr. J. P. Wilson (Sunderland) and Mr. J. Grahame Harris (Altrincham) were respectively elected president and vice-president of the society for the ensuing year and Mr. Leslie M. Pugh (Sheffield) and Mr. B. J. Hartwell, LL.M. (Southport) were re-elected honorary treasurer and honorary secretary. Congratulations were offered to Mr. Sydney Littlewood, an honorary member of the society, upon the knighthood recently conferred upon him. Mr. A. F. Stapleton Cotton, who has rendered distinguished service to the society as its former honorary secretary and afterwards as president, decided not to seek re-election to the council. He remains an honorary member of the society. Newly elected members of the council were Mr. G. S. Green (Manchester P.S.D. and Eccles Borough) and Mr. Ralph Seeting, M.A., LL.B. (Wakefield).

At the society's annual dinner the guests included the mayor and mayoress of Torquay, Sir Granville Ram, Sir Leonard Costello, Mr. Thomas G. Lund, C.B.E., and Mr. Oliver Bell, M.A., J.P.

RURAL DISTRICT COUNCILS' ASSOCIATION ANNUAL MEETING AND CONFERENCE

The Mayor, Alderman E. G. Ely, welcomed delegates on behalf of the town of Torquay when the Rural District Councils' Association opened their annual conference recently. He voiced the hope that the association might take steps to bring pressure on the Minister of Local Government and Planning for the reinstatement of the many powers of local government which had recently been spirited away. Mr. Arthur Colgate, Member of Parliament for Burton-on-Trent, was re-elected president for the coming year when the meeting opened, and Mr. Neville Hobson, clerk to Beverly R.D.C., addressed the meeting as chairman for the ensuing year. Mr. Hobson said that, notwithstanding various difficulties, the association should continue to urge that comparable numbers of houses must be built for the rural districts as well as for the municipalities and urban districts. He was also of the opinion that the management of water supplies in rural England could be efficiently managed through the good will of local authorities and the question of nationalization of water supplies should be left alone. In discussing the composition of councils, Mr. Hobson said he would like to see a larger representation of women members. The council then proceeded with the printed agenda which included resolutions on a variety of subjects.

The conference resolved to refer to the council of the association for further consideration the question of urging the government to introduce legislation to ensure the cleaning of small water courses through natural causes. The chairman pointed out that this resolution was concerned with general land drainage and in these terms it was referred to the council. The council then considered a motion which urged the association's council to consider ways in which building and up-keep could be kept to a minimum. After a lively debate in which some fourteen delegates expressed their opinions, the conference arrived at its decision on the amendment submitted by the delegate from Witney. A resolution concerning efforts to secure amendments to the Rent Restrictions Acts in order to permit variation of controlled rents to meet increased costs of repairs was carried unanimously. A resolution calling for a subsidy to be paid to the local authority where the cost of building a house had been greatly increased in taking steps for the protection of consequences of subsidence due to clay foundations was passed. A resolution by the delegate of St. Ives, Huntingdonshire, urging that the Minister of Local Government and Planning should be pressed to permit rural district councils to issue more licences for private enterprise building was carried by a large majority. The motion criticising the joint negotiating committee for chief officers of local authorities was withdrawn following an appeal from the chair. A motion concerning employees' salaries and working conditions was lost by a large majority, it being generally felt that the association's executive committee, comprising elected representatives, were able to deal with this matter.

The following papers which were extremely interesting as well as informative covered a range of subjects wide enough to appeal to the interest of all of the delegates present.

1.—*The Rural District Councils' Part in Planning*, by Mr. James R. W. Adams, P.P.T.P.I., F.R.G.S., F.I.L.A., county planning officer for Kent.

2.—*Rural Water Supplies*, by Mr. F. W. James, L.R.I.B.A., A.M.I.S.E., A.Inst.W.E., engineer and surveyor to the Blaby R.D.C., Leicestershire.

3.—*A Review and Commentary on Rural Housing*, by Mr. P. L. Leigh-Breese, J.P., F.I.Hsg., chairman, International Housing and Town Planning Council.

4.—*Sewerage in a Rural District*, by Mr. George E. Knight, A.R.San.I., M.S.I.A., F.F.S.(Eng.)., engineer and surveyor to North Cotswold R.D.C.

5.—*Public Relations*, by Mr. T. D. Hockings, clerk and solicitor to the Rural District Council of Deben, vice-chairman of the General Purposes Committee of the association.

The first-aid system which was used throughout the rural districts of England and Wales in the last war would be used again in any future war, declared Sir John Hodsoll, Director General of Training (Civil Defence). Sir John called on delegates to emphasize in their own districts the vital importance of being prepared to meet air attack. They would have to train on the understanding that civilians alone would have to do most of the work which would result from raids, though there was always the possibility that the military might be able to spare certain forces to assist. Mr. Hugh Dalton, Minister of Local Government and Planning, was unable to attend the conference but an assistant secretary to the Ministry, Mr. C. R. Kerwood, C.B.E., deputized for him. Mr. Kerwood said that rural district councils had provided twenty *per cent.* more houses in relation to their population than the rest of England and Wales. Their 122,000 houses were over seventy *per cent.* of the total permanent houses which had been built, and of these they had let 26,000 houses to agricultural workers. Mr. Kerwood was asked by the delegates if councils should pay development charges on land bought for housing, and he said this was essential as

they were in fact thereby only paying the proper price of the land. This was not an additional price. Councils bought the land from the owner at the present use value; the development charge simply represented the value that might have accrued. "You simply pay on the same footing the price that existed before the Act, but in two parts," he said. One delegate asked if the Minister would consider allowing local authorities to sell houses to sitting tenants and Mr. Kerwood replied: "The Minister would not agree unless he was quite satisfied it could be done without impairing the principle of houses going to those in most need. If you are satisfied you have a case which will satisfy not only the local but the national requirements, the Minister will be prepared to consider it."

"CHAIRMAN" AN UNSATISFACTORY TITLE

At a recent meeting of the Thame Urban District Council, Councillor A. Finch moved that the Council should ask the Urban District Councils' Association to bring into use a more distinguished title for those who presided over their meetings than "chairman"; "reeve" was suggested as more suitable. A plea was also made for a better way of addressing ladies who preside over council meetings than by calling them "Madam Chairman." Thame Urban District Council has a lady, Miss E. N. Fanshawe, as chairman this year.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

SOLICITORS' CHARGES

At question time in the Commons, Mr. John Paton (Norwich N.) asked the Attorney-General whether he would introduce legislation so as to secure that solicitors might reduce their charges without becoming liable to penalties.

The Attorney-General, Sir Frank Soskice, in reply, said he presumed that Mr. Paton had in mind the provisions of the Solicitors' Practice Rules, 1936, whereby a solicitor might not hold himself out as being prepared to do business at less than certain rates prescribed by those Rules. There was, however, nothing to prevent a solicitor from making a written agreement with a client to charge the client less than those rates and the Lord Chancellor did not consider that there was any need for legislation of the kind suggested.

Mr. Paton: "Does not my right hon. and learned Friend know of a recent case in which a solicitor who reduced his fee was fined £100 by the Disciplinary Committee of the Law Society, a penalty which was afterwards upheld in the High Court, and does he think that this kind of price maintenance is good in the public interest?"

The Attorney-General: "I am well aware of that decision, but it does not contradict anything I have just said. There were special circumstances in the facts of that case, which differentiated from the principle which I have just stated."

LEGAL AID

Mr. C. W. Black (Wimbledon) asked the Attorney-General what amount of public money was expended in free legal aid to Mrs. P. Grant and her stepson in respect of their recent litigation in the Chancery Division regarding a £1,000 football pool prize.

The Attorney-General replied that as that was a matter of day to day administration of the Legal Aid Scheme, the Lord Chancellor had no direct responsibility, the Law Society having been entrusted with the administration of the scheme, subject to the general guidance of the Lord Chancellor. As the bills of costs had not yet been taxed, no accurate figure was in any event available. So far as the unsuccessful plaintiff was concerned, she had obtained a Poor Person's Certificate under the Poor Persons' Rules in 1948, which was, under the transitional provisions of the Legal Aid Scheme, converted into a civil aid certificate on October 2, last.

Mr. Black: "Bearing in mind that the Judge concerned in this case, Mr. Justice Wynn-Parry, referred to this case as "fruitless litigation," does not the right hon. and learned Gentleman think that it was a gross waste of public money that legal aid should have been afforded in a case of this kind, and can he say why the successful party, who, presumably, secured the £1,000 football pool competition prize, could not have paid his own costs?"

The Attorney-General: "If the learned Judge's remarks are set out in full, I think it is apparent that he clearly indicated that he was implying no criticism of the Legal Aid Committee concerned."

The Attorney-General added that the grant of the legal aid certificate was automatic.

REVIEWS

Food and Drugs Administration. Supplement to First Edition. By Stewart Swift, M.B.E. London: Butterworth & Co. (Publishers) Ltd. Price of main work and Supplement 50s. Supplement alone 15s., by post 4d. extra.

In these days of prolific legislation, both Parliamentary and subordinate, new editions of, or supplements to text books are indispensable. The present supplement of 252 pages includes a considerable body of new law and decided cases, and takes the form of a noter-up, which, used in conjunction with the main work brings the latter up to date. Sometimes whole passages have to be substituted, but cross reference is always simple.

Many functions formerly belonging to the Ministry of Health have now been transferred to the Ministry of Food; the law relating to milk, dairies and artificial cream has been consolidated in the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, and certain functions have been transferred to the Minister of Agriculture and Fisheries. The law relating to diseases of animals has been consolidated in the Diseases of Animals Act, 1950. It is evident, therefore, that the supplement is, as we have said, indispensable.

Personality and Psychosis. By Otho W. S. Fitzgerald, M.A., M.D. (Dublin). London: Bailliere, Tindall & Cox. Price 12s. 6d. net.

Dr. Fitzgerald is Medical Superintendent of Shenley Hospital, and in this book he addresses himself principally to mental hospital doctors, but it will doubtless be of interest to many others who are concerned with problems of mental health and disease. Psychiatry is still in its infancy but knowledge is increasing, and psychiatrists are no longer regarded as cranks. The psychiatrist is recognized as having his proper place in ascertaining the causes of crime, and suggesting methods of treatment.

Personality is here considered as including both the mental and the physical make-up. The general scheme of the work is to classify psychopathic or psychotic personalities by types or groups, and to discover their various characteristics, with illustrations from actual cases. Traits may be inborn or acquired, and these must be carefully distinguished. It is submitted by the author that this method of type psychology, may be of use, not only in diagnosis but also in prognosis and treatment.

The book is necessarily technical, but it is not difficult reading, provided the reader is prepared to take the trouble to look up the meaning of a certain number of terms, familiar to the psychologist, but strange to those without specialized knowledge.

NOTICE

The next court of quarter sessions for the borough of Shrewsbury will be held on Friday, August 17, 1951, at the Shirehall, Shrewsbury, at 11 *a.m.*

EPITAPH

O stranger, pray, for a second stay,
Where a pessimist rests in peace.
A man who had clients with feet of clay—
And whose flocks of swans were geese.

J.P.C.

MIS-LED

A leader was led by a leading lady
Up the garden and down the aisle,
He was led a life by his leading lady
That led him away from her after a while.

J.P.C.

MOST OUTRAGEOUS SUGGESTION

If Coke is Oke,
Should Stone be Scone?

F.G.H.

PERSONALIA

APPOINTMENTS

Mr. John H. A. Crundell, deputy town clerk of Bath, has been appointed town clerk and clerk of the peace for the city of Rochester. He was previously senior assistant solicitor to the city and county of Bristol. Mr. Crundell served in the Royal Air Force during the war.

Mr. L. S. Sawtell, assistant clerk and chief financial officer to Sherbourne R.D.C., has been appointed town clerk of Brackley Borough.

Mr. J. A. Weston has been appointed deputy town clerk of Wednesbury in succession to Mr. G. F. Clegg who has been appointed clerk to the Rawmarsh Urban Council.

Mr. W. B. Wolfe of the Huddersfield town clerk's office has been appointed assistant solicitor to the county borough of Stockport. Mr. Wolfe served his articles with the town clerk of Huddersfield and was admitted a solicitor in June of this year. He succeeds Mr. J. R. Fitzpatrick who has been appointed an assistant solicitor with the Middlesex County Council.

Mr. R. O. Whiting, LL.B., assistant solicitor to the borough of Batley, has been appointed assistant solicitor to the Isle of Ely County Council.

Mr. Colin Campbell, assistant solicitor to the Stretford, Lancs., Corporation, has been appointed assistant solicitor to the Solihull Urban District Council. He takes the place of Mr. H. A. Riddick, LL.B., who has been appointed to a similar post with Eastbourne Corporation.

Mr. W. A. Till, legal assistant to the Swadlincote Urban District Council, has been appointed assistant solicitor to the Whitstable Urban District Council. Mr. Till was admitted in June, 1951.

Mr. Christopher Albert Taylor has been appointed official receiver for the bankruptcy district of the county courts of Sheffield and Barnsley.

OBITUARY

Mr. H. R. Fanner, M.B.E., formerly clerk to the justices for the county borough of Southend-on-Sea and for the petty sessional division of Rochford, Essex, died on July 13, 1951. Mr. Fanner was admitted a solicitor in 1904 and was later appointed deputy town clerk and prosecuting solicitor at Stoke-on-Trent. He was appointed clerk to the justices for the county borough of Southend-on-Sea and petty sessional division of Rochford in 1911. He received the M.B.E. for services rendered as clerk to the district tribunals during World War I. Among the many assistants who served under him were Mr. James Whiteside, clerk to the city justices, Exeter, editor of *Stone*; Mr. F. W. Owens, clerk to the city justices, Bradford; Mr. L. K. Lodge, clerk to the justices, Northampton; Mr. R. G. J. Chandler, clerk to the city justices, Guildhall, London, and Mr. H. Homfray Cooper who succeeded him as clerk to the ustices for the county borough of Southend. Mr. Fanner retired in 1948 after sixty-two years' experience in magisterial work.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, July 17

RIVERS (PREVENTION OF POLLUTION) BILL, read 3a.
FINANCE BILL, read 2a.
RESERVE AND AUXILIARY FORCES (PROTECTION OF CIVIL INTERESTS) BILL, read 2a.
FIREWORKS BILL, read 3a.

Wednesday, July 18

GUARDIANSHIP AND MAINTENANCE OF INFANTS (No. 2) BILL, read 2a.

Thursday, July 19

BRITISH TRANSPORT COMMISSION BILL, read 3a.

HOUSE OF COMMONS

Wednesday, July 18

PRICE CONTROL AND OTHER ORDERS (INDEMNITY) BILL, read 1a.

Friday, July 20

FORESTRY BILL (LORDS), read 3a.
TITHE ACT, 1936 (AMENDMENT) BILL (LORDS), read 3a.
RAG FLOCK AND OTHER FILLING MATERIALS BILL (LORDS), read 3a.
DANGEROUS DRUGS BILL (LORDS), read 3a.
MIDWIVES BILL (LORDS), read 2a.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Election—*Representation of the People Act, 1949—Returning officer canvassing.*

Section 86 (1) of the Representation of the People Act, 1949, provides:

"Section 86.—(1) If any returning officer at a parliamentary or local government election or any officer or clerk appointed under the parliamentary or local elections rules, as the case may be, or any partner or clerk of any such person acts as an agent of a candidate in the conduct or management of the election, he shall be guilty of a misdemeanour:

"Provided that nothing in this subsection shall be taken as preventing a candidate from acting as his own election agent."

Please advise whether, in a borough divided into wards, a returning officer, who has canvassed on behalf of and in the company of a candidate at an election in the ward to which he has been assigned by the council to act as returning officer, has acted as an agent of a candidate in the conduct or management of the election within the meaning of s. 86 (1). If the answer is in the affirmative, will you please advise upon whom the duty is cast to report such an offence, and to whom the report should be submitted? ANON.

Answer.

This enactment, formerly s. 44 (6) of the Act of 1948, goes back to 1867, but we have not found a direct decision, on the question whether the word "agent" is intended to apply to an election agent and a sub-agent appointed under Part II of the Act, or is of general significance. Since the section is penal, our first inclination was to construe it narrowly—however unseemly the conduct in this case. But in the nature of things the returning officer cannot act as a polling agent or counting agent, so that the use of the word "agent," instead of the phrase "election agent" as in other sections, may indicate agency in other than a technical sense. Moreover, a person can be an agent for general purposes of the election statutes (especially so as to fix the candidate with responsibility for corrupt practices) when he would not be an agent in ordinary law—*Bewdley* case (1869) 1 O'M. & H. 16; *Taunton* case (1874) 2 O'M. & H. 66, especially at p. 75; *Wigan* case (1881) 4 O'M. & H. 1, especially at p. 13 on the subject of general canvassing as evidence of agency. We think the point is, at any rate, so far arguable that the mayor and the town clerk have both a duty to inform the Director of Public Prosecutions of the facts which have come to their knowledge.

2.—Highway—*Mud carried by cartwheels.*

This rural district council has received numerous complaints during the recent wet weather of the serious inconvenience, and indeed danger, which has been caused to motorists and cyclists by deposits of mud and manure on highways in the district by the wheels of tractors and trailers. The trouble has been accentuated because the farmers have not been able to get on the land to spread the manure and have had to haul it to various dumping places. The divisional highway surveyor of the county council says he is powerless to take any action because the clerk of the county council holds that action can only be taken against anyone who deliberately deposits mud or manure on the highway. Section 72 of the Highway Act, 1835, seems to be the authority. In some of its paragraphs, *e.g.*, the first, second, fifth and sixth, it refers to wilful action but in others the word "wilful" is omitted. It does not appear in the paragraph prohibiting the laying of . . . dung, manure . . . soil . . . upon the highway. I should be interested to know whether in your opinion there is any power to take action in the matter. ABB.

Answer.

In our opinion the verb "lay" implies volition, just as does the tethering of an animal or the playing of football, two among the other actions forbidden by s. 72: *cf.* P.P. 7 at 111 J.P.N. 587, where there is full discussion, and P.P. 2 at 112 J.P.N. 529. We agree with the clerk of the county council. In reply to the last sentence of your query, we may mention a byelaw adopted by some county councils under s. 249 of the Local Government Act, 1933, though not occurring in the printed model series issued from the Home Office. That byelaw, however, in any version we have seen, would not prevent the carrying of mud and manure on the wheels of carts, from fields to highways. Moreover, the farmer has at least as much right to use the highway traversing his farm as has the motorist, and you cannot drive a cart across wet soil, or across a farm yard, without picking up mud and manure on the wheels. Any attempt to prevent this would be so unreasonable as, in our opinion, to render void a byelaw which purported to do so.

3.—Husband and Wife—*Adultery—Evidence of alleged adulterer—Matrimonial Causes Act, 1950, s. 32 (2).*

Your opinion upon the following circumstances is sought.

W obtains a maintenance order against H on the ground of his adultery. W then takes in male lodgers to augment her income. Five years later H applies to the same court to revoke the maintenance order made in favour of W on the ground of her adultery with a lodger, L.

Subsequent to the service of the summons giving particulars of W's adultery with L, L writes a letter to W saying that he is being called by the solicitor for H to give evidence against W concerning their mutual acts of adultery.

When the case comes before the justices, the solicitor for H, without opening his case, puts him in the witness box and he proves the marriage and the original maintenance order and no more. The solicitor for H then puts L into the witness box. L has given his name and address and stated that he lived at the same address as W for a number of years. He is then asked by H's solicitor "what terms were you upon with W." At this point W's solicitor objected to the question on the ground that it is a question to a witness tending to show that he has committed adultery and is inadmissible by reason of s. 32 (3) Matrimonial Causes Act, 1950, which re-enacts s. 198 Supreme Court of Judicature (Consolidation) Act, 1925, and the earlier provisions of the Evidence Further Amendment Act, 1869, the effect of which sections is that "in proceedings instituted in consequence of adultery . . . no witness . . . whether a party thereto or not shall be liable to be asked or be bound to answer any question tending to show that he or she has been guilty of adultery unless he or she has already given evidence in the same proceedings in disproof of the alleged adultery."

H's solicitor was unable to deal with the point taken against him and was granted fourteen days adjournment to consider the matter but on the adjourned hearing stated that he was unable to meet the argument and the witness gave no further evidence on that point and the application for discharge of the order was dismissed.

Subsequent to the determination of this particular case, W's solicitor has discussed the matter with various authorities and collected a welter of conflicting opinions.

It would be appreciated if an opinion could be expressed as to whether in the particular case, s. 32 Matrimonial Causes Act, 1950, was properly applied or, if not, what was the intention of the legislature when the section was passed and in what circumstances would it properly be applicable. SJVR.

Answer.

L could not be compelled to answer questions about his alleged adultery, but we think that if he is quite willing to do so his evidence is admissible. In *Rayden on Divorce* 5th edn. at p. 345, it is stated that "where the party elects to go into the witness box and give evidence on oath as to the adultery, then such evidence is admissible against the other party concerned." And the case of *Spring* v. *Spring and Jiggins* [1947] 1 All E.R. 886 is cited. The supplement to *Rayden* adds that corroboration is necessary because the evidence is that of an accomplice, *Fairiman* v. *Fairiman* [1949] 1 All E.R. 938.

The principle behind the legislation is briefly stated in *Rayden* p. 345, "The great principle of the common law of the country is that a party cannot be required by evidence to criminate herself or himself." Adultery is regarded as a *quasi* criminal offence.

If a witness objects to give evidence or to answer questions on the ground of self-incrimination the section protects him. Only if he volunteers to give evidence does the section, in our opinion, enable his evidence to be received.

4.—Licensing—*Service of notice on superintendent of police—Whether service is sufficient where notice served on inspector of police.*

Until two years ago, my petty sessional division and a neighbouring division were controlled from the police administration side by a superintendent stationed in the town.

On the re-organization of the county constabulary, and the retirement of that superintendent, an inspector was appointed in his place and the superintendent of a neighbouring division had this division joined with his own, he thus becoming the superintendent of this division, with an inspector stationed in the town at the police station, although his own office is in another town.

For many years and until the present day it has been customary to serve "notices on the superintendent of police for this division" on the inspector of police in this town, either by registered post or by personal service and no point as to the correctness has ever been taken.

At my adjourned general annual licensing meeting, a grocer is making application (through a solicitor) for a wine and spirit "off-licence" and I understand that objection will be taken on the following ground :

That the notice of application was not served on the superintendent of police for this division but was in point of fact only served on the inspector of police at the police station in this town.

I have referred to the case of *R.* v. *Riley*, which seems to have some bearing on the point of issue, but seems to concern itself with the question of the lateness of the application, and does not seem to give a great deal of help on the question of service.

I should be glad to have your valued opinion as to :

(*a*) Is the service on the inspector of police good in view of the circumstances set out above ?

(*b*) Whether there are any recent decisions which may be of assistance. NIMA.

Answer.

In *R.* v. *Riley* (1889) 53 J.P. 452, it was held by licensing justices that service upon an inspector of police did not comply with a statute which required notice to be served on the superintendent of police. The High Court refused *mandamus* to upset this decision. It seems from the report of the case that it was the superintendent himself who showed cause against the rule for *mandamus* on the ground that the notice had not been served upon him within the prescribed period before the application.

It may be that our correspondent's case may be distinguished from *R.* v. *Riley*, *supra*, on the point that the notice was addressed to the superintendent of police and was accepted by the inspector as his agent : such an agency being inferred from the fact that it has been customary "for many years and until the present day" so to serve notices on the superintendent.

It remains the law that notice must be served on the superintendent of police, but we think that licensing justices are entitled to look at all the surrounding facts ; in particular, if it is the case that the superintendent acknowledges that the service upon him, through the medium of the inspector, was good, and in their discretion admit the notice as having been properly served.

5.—**Magistrates**—*Practice and procedure—Costs on an order requiring surety to keep the peace or be of good behaviour—Power to award.*

A was summoned that on a certain day in a certain cinema he was guilty of behaviour likely to cause a breach of the peace contrary to the statute 34 Edw. III, 1360. He admitted that he had conducted himself as alleged and was bound over in £10 to be of good behaviour for two years and ordered to find one surety £10, in default one month's imprisonment. Witnesses were present in court and costs of £2 were applied for.

This is not a conviction and there is no pretence for saying that the magistrates have convicted A of anything. The magistrates are merely taking a precaution against A committing an offence, and there is no right of appeal. Can one order costs under such circumstances ?

Stone, p. 292, under "Surety for good behaviour," states, "The course to be observed generally in taking a recognizance for good behaviour both as respects the time for which it may be granted and the power and extent of commitment in default, *and other particulars*, is the same as already noticed under the head of "Surety of the Peace."

"Surety of the Peace" p. 291 reads "Costs—the complainant and defendant shall be subject to costs as in the case of any other complaint."

Sureties of the peace and for good behaviour can be required on conviction for an offence. Is it not this to which *Stone* refers ?

JOST.

Answer.

There are two classes of cases in which a person may be ordered to enter into a recognizance with or without sureties to keep the peace or to be of good behaviour.

In the first class it is done on the complaint of someone with a request that the defendant be required to keep the peace or be of good behaviour towards the complainant. In such a case s. 25 of the Summary Jurisdiction Act, 1879, imports summary procedure and costs can properly be awarded.

In the other class the court orders a general recognizance. No individual complainant asks that he be specially mentioned in that recognizance which requires that the defendant keep the peace or be of good behaviour and makes no reference to any individual who is to be specially protected by it. In this case s. 25 does not apply, and the Summary Jurisdiction Acts are not imported. We think, therefore, that there is no authority to award costs.

The case in question appears to be in the second class rather than in the first, but we may be mistaken in this.

6.—**Magistrates**—*Practice and procedure—Plea of Guilty—Need for sworn evidence—Proving case in defendant's absence.*

Will you be good enough to advise me on the following points :

1. In a case in which the defendant appears and pleads Guilty the bench wish to hear a statement of facts from the prosecution, is it customary to have the witness sworn ? My view is that this is unnecessary.

2. If in the absence of the defendant a letter is received admitting the case and again the bench wish to hear a statement of fact, ought the witness to be sworn ? JIN.

Answer.

1. No, it is unnecessary.

2. A defendant may purport to admit facts in a letter, but he cannot, in this country, plead Guilty by letter. If he does not attend, the case must be fully proved in the normal way by sworn evidence.

7.—**Music, etc., licence**—*Whether music limited to "wireless set" will include "television."*

A considerable number of licence holders in my petty sessional division keep wireless sets on their premises for the entertainment of their customers for which the justices have granted music and dancing licences under the Public Health Acts Amendment Act, 1890.

With the advent of television into the area, some licensees are installing television sets in their houses also for the entertainment of their customers.

Having regard to the different type of programmes provided by television, I shall be glad of your opinion as to whether the music and dancing licence granted under the Act of 1890 for wireless sets will cover the installation of television on the licensed premises.

NEMO.

Answer.

In our opinion, the licence already granted is wide enough to authorize the public performance of music by means of television reception. We think that the expression "wireless set" includes a television set as well as one which receives sound alone. In any case, we presume that the licences granted follow the words of s. 51 of the Public Health Acts Amendment Act, 1890, and authorize public music "or other public entertainment of the like kind."

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

COUNTY BOROUGH OF ROCHDALE

Senior Assistant Solicitor

APPLICATIONS are invited for the above appointment at a salary in accordance with A.P.T. Grade VIII of the National Scales.

The appointment is subject to the National Scheme of Conditions of Service and the Local Government Superannuation Act, 1937, and will be terminable by two months' notice on either side.

The successful applicant will be expected to undertake committee work in addition to conveyancing and advocacy.

Applications (endorsed "Senior Assistant Solicitor"), with names of two referees, must reach the undersigned by August 7. Relationship to any member or senior officer of the council must be disclosed.

Canvassing will disqualify.

K. B. MOORE,
Town Clerk.

Town Hall, Rochdale.

COUNTY BOROUGH OF WOLVERHAMPTON

Appointment of Third Assistant Solicitor

APPLICATIONS are invited for the above appointment. Salary Grade A.P.T. VI (£645—£710) : after two years' experience from the date of admission salary will be in accordance with Grade A.P.T. VII (£685—£760).

The appointment will be subject to the Conditions of Service of the National Joint Council for Local Authorities' administrative etc., Services, to the provision of the Local Government Superannuation Act, 1937, and to passing a medical examination, and will be determinable by one month's notice on either side. Experience in advocacy will be an advantage but is not essential.

Applications, stating age, experience, and educational qualifications, and giving the names of three persons to whom reference may be made, should reach me not later than Saturday, August 11, 1951.

J. BROCK ALLON,
Town Clerk.

Town Hall,
Wolverhampton.

COUNTY OF KENT

Appointment of Woman Probation Officer

The Kent Combined Probation Committee invites applications for the appointment of a whole-time woman Probation Officer to serve in the Kent Combined Probation Area.

The appointment will be subject to the Probation Rules, 1950, and the salary will be in accordance with the scale provided in the Rules. The appointment is superannuable.

Applicants must be qualified to deal with probation cases, matrimonial differences and other social work of the Courts.

The selected candidate will be required to pass a medical examination.

Applications, stating age, experience and educational qualifications, together with copies of not more than three recent testimonials, should be sent to the undersigned within fourteen days of the appearance of this advertisement.

W. L. PLATTS,
Clerk of the Peace.

County Hall,
Maidstone.

BRACKNELL DEVELOPMENT CORPORATION

(*Established under the New Towns Act*, 1946)

Legal Assistant (Unadmitted)

APPLICATIONS are invited from unadmitted solicitor's clerks with at least ten years' experience in conveyancing law and practice and the general legal work in private practice and/or Local Government for appointment as legal assistant (unadmitted) in the legal department of the above Corporation.

Applicants must be experienced in general legal and conveyancing work and must be able to undertake the legal work of land acquisition including Compulsory Purchase Orders. The commencing salary will be in the range £610–£810 per annum according to qualifications and experience.

The successful applicant would be required to contribute to the Local Government or New Towns Superannuation Schemes and appointment will be subject to medical examination.

Applications, giving the names of three referees, should be made on a form obtainable from the undersigned and returnable by August 18, 1951.

General Manager,
Bracknell Development Corporation,

Farley Hall,
Binfield, Bracknell, Berks.

HAMPSHIRE COMBINED PROBATION AREA

Appointment of Full-time Female Probation Officer

APPLICATIONS are invited from persons who have had experience and training as Probation Officers for the appointment of a full-time Female Officer for the above area. Candidates must be not less than 23 nor more than 40 years of age (except in the case of serving officers).

The appointment and salary will be in accordance with the Probation Rules and the salary will be subject to superannuation deductions. The successful applicant will be required to provide a motor car for which an allowance will be paid in accordance with the County scale for the time being in force.

Applications, giving particulars of age, education, present salary, qualifications and experience, with the names and addresses of not more than three persons to whom reference may be made, should be submitted to the undersigned not later than August 9, 1951.

Canvassing, either directly or indirectly, will be a disqualification.

G. A. WHEATLEY,
Clerk of the Probation Committee.

The Castle,
Winchester.
July 16, 1951.

BEDFORDSHIRE COUNTY COUNCIL

APPLICATIONS are invited from suitably qualified persons for the office of Clerk of the Council.

The conditions of the appointment will be those recently adopted by the County Council's Association for County Clerks. The salary will be fixed within the limits of the scales therein set out ; the actual scale to be settled according to the experience of the successful applicant.

It may be assumed that the successful applicant will be eligible for appointment to the office of Clerk of the Peace at a salary of £500 per annum, and if so appointed, may be required to accept the Honorary Clerkship to the Advisory Committee for the County ; and, subject to the permission of the County Council, may be appointed Honorary Clerk to the Lieutenancy.

The person appointed will be debarred from appointment as Clerk to the Valuation Panel, Under Sheriff or Civil Defence Controller and from holding any office or appointment not usually held by the occupant of the combined offices of the Clerk of the Peace and of a County Council.

The mileage allowance for the use of a private motor car whilst engaged on official duties will be that applicable to the Chief Officers of the County ; and other approved out-of-pocket expenses will be paid by the council.

Applications, with names of two referees, endorsed "Clerkship" to be forwarded to the Deputy Clerk of the Council not later than August 31, 1951.

NDOLA MUNICIPAL COUNCIL (Northern Rhodesia)

Vacancy : Town Clerk

APPLICATIONS are invited and will be received by the undersigned up to noon on September 17, 1951, for appointment to the post of Town Clerk on a salary grade of £1,320 × 40—£1,600 per annum plus a 10 *per cent.* cost-of-living allowance up to a maximum of £120 per annum.

The appointment is subject to all terms and conditions of Council's Service Regulations, which include a probationary period of six months, leave at the rate of five days per completed month of service (cumulative after the first twelve months' continuous service), a 5 *per cent.* contributory Provident Fund and a Medical Aid Scheme.

Applications must state the earliest date on which duties could be commenced and contain full particulars of the candidate's name, age, marital state, and experience, and should be accompanied by copies of three recent testimonials and a medical certificate of fitness. A legal or other qualification in local government administration will be an additional recommendation.

Accommodation is available at a monthly rental of 12½ *per cent.* of basic salary.

Canvassing of the council or any committee of the council, directly or indirectly, for appointment will disqualify the candidate for such appointment.

P. TAYLOR,
Town Clerk.

Municipal Offices,
P.O. Box 197,
Ndola.

METROPOLITAN BOROUGH OF HACKNEY

Town Clerk's Office

Appointment of Legal Assistant

APPLICATIONS are invited for this permanent appointment at a salary in accordance with Grade A.P.T. V (£570—£620 p.a.) plus London Weighting allowance. The commencing salary may be fixed at a point above the minimum according to the qualifications and experience of the successful candidate.

Candidates must be thoroughly experienced in Conveyancing (including Land Registration) and be capable of acting without supervision. Previous Local Government experience is desirable and experience in Common Law, High Court and County Court practice will be an advantage.

Conditions of appointment and application form may be obtained from the undersigned upon receipt of a stamped addressed foolscap envelope.

Completed application forms endorsed "Legal Assistant" must be returned not later than first post on August 13, 1951. The Council is unable to assist with housing accommodation.

DUDLEY SORRELL,
Town Clerk.

Town Hall,
Hackney, E.8.
July 18, 1951.

When replying to advertisers please mention the Justice of the Peace and Local Government Review

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